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Department of State of the United States. 1. Jany. 1821.

COLLECTION

OF ALL SUCH

ACTS

OF THE

GENERAL ASSEMBLY

OF

VIRGINIA,

OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN FORCE;

WITH A TABLE OF THE PRINCIPAL MATTERS.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS, AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY, INTITULED, "AN ACT PROVIDING FOR THE REPUBLICATION OF THE LAWS OF THIS COMMONWEALTH," PASSED ON THE TWENTY-EIGHTH DAY OF DECEMBER, ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO.

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At a GENERAL CONVENTION *of Delegates and Repreſentatives, from the ſeveral Counties and Corporations of* VIRGINIA, *held at the Capitol in the City of* WILLIAMSBURG, *on* MONDAY *the 6th of* MAY, 1776.

CHAP. I.

A Declaration of Rights made by the Repreſentatives of the good People of VIRGINIA, *aſſembled in full and free Convention; which rights do pertain to them, and their Poſterity, as the baſis and Foundation of Government.*

I. THAT all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a ſtate of ſociety, they cannot, by any compact, deprive or diveſt their poſterity; namely, the enjoyment of life and liberty, with the means of acquiring and poſſeſſing property, and purſuing and obtaining happineſs and ſafety.

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II. THAT all power is veſted in, and conſequently derived from, the people; that Magiſtrates are their truſtees and ſervants, and at all times amenable to them.

III. THAT government is, or ought to be, inſtituted for the common benefit, protection and ſecurity, of the people, nation, or community; of all the various modes and forms of government, that is beſt, which is capable of producing the greateſt degree of happineſs and ſafety, and is moſt effectually ſecured againſt the danger of mal-adminiſtration; and that when any government ſhall be found inadequate or contrary to theſe purpoſes, a majority of the community hath an indubitable, unalienable, and indefeaſible right, to reform, alter, or aboliſh it, in ſuch manner as ſhall be judged moſt conducive to the public weal.

IV. THAT no man, or ſet of men, are entitled to excluſive or ſeparate emoluments or privileges from the community, but in conſideration of public ſervices; which not being deſcendible, neither ought the offices of Magiſtrate, Legiſlator, or Judge, to be hereditary.

V. THAT the Legiſlative, and Executive powers of the ſtate ſhould be ſeparate and diſtinct from the Judiciary; and that the members of the two firſt may be reſtrained from oppreſſion, by feeling and participating the burthens of the people, they ſhould, at fixed periods, be reduced to a private ſtation, return into that body from which they were originally taken, and the vacancies be ſupplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws ſhall direct.

VI. THAT elections of members to ſerve as repreſentatives of the people, in Aſſembly, ought to be free; and that all men, having ſufficient evidence of permanent common intereſt with, and attachment to, the community, have the right of ſuffrage, and cannot be taxed or deprived of their property for public uſes, without their own conſent, or that of their repreſentatives ſo elected, nor bound by any law to which they have not, in like manner, aſſented, for the public good.

VII. THAT all power of ſuſpending laws, or the execution of laws, by any authority without conſent of the repreſentatives of the people, is injurious to their rights, and ought not to be exerciſed.

VIII. THAT in all capital or criminal proſecutions, a man hath a right to demand the cauſe and nature of his accuſation, to be confronted with the accuſers and witneſſes, to call for evidence in his favour, and to a ſpeedy trial by an impartial jury of his vicinage,

1776. without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

IX. THAT excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

X. THAT general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. THAT in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

XII. THAT the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. THAT a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases, the military should be under strict subordination to, and governed by, the civil power.

XIV. THAT the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

XV. THAT no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

XVI. THAT religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other.

CHAP. II.

The Constitution or Form of Government, agreed to and resolved upon by the Delegates and Representatives of the several Counties and Corporations of VIRGINIA.

Preamble.

Enumerating instances of royal misrule.

I. WHEREAS *George* the third, King of *Great-Britain* and *Ireland*, and Elector of *Hanover*, heretofore entrusted with the exercise of the kingly office in this government, hath endeavoured to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good: By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years: By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the Legislature: By dissolving Legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people: When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any Legislative head: By endeavouring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners: By keeping among us, in time of peace, standing armies and ships of war: By affecting to render the military independent of, and superior to, the civil power: By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of Legislation: For quartering large bodies of armed troops among us: For cutting off our trade with all parts of the world: For imposing taxes on us without our consent: For depriving us of the benefits of trial by jury: For transporting us beyond seas, to be tried for pretended offences: For suspending our own Legislatures, and declaring themselves invested with power to le-

gislate for us in all cases whatsoever: By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people: By inciting insurrections of our fellow-subjects, with the allurements of forfeiture and confiscation: By prompting our negroes to rise in arms among us, those very negroes, whom, by an inhuman use of his negative, he hath refused us permission to exclude by law: By endeavouring to bring on the inhabitants of our frontiers, the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence: By transporting at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation: By answering our repeated petitions for redress with a repetition of injuries: And finally, by abandoning the helm of government, and declaring us out of his allegiance and protection. By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great-Britain*, is totally dissolved.

Former government dissolved.

II. WE therefore, the Delegates and Representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth:

Another declared.

III. THE Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the Justices of the county courts shall be eligible to either House of Assembly.

Legislative, Executive, & Judiciary, separated, with an exception.

IV. THE Legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once or oftener, every year, and shall be called the General Assembly of *Virginia*.

Legislative formed of two Houses, called General Assembly, shall meet every year, once or oftener;

V. ONE of these shall be called the House of Delegates, and consist of two Representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law, and also one Delegate or Representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a Representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the Legislature; but when any city or borough shall so decrease as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly.

One of them to be called the House of Delegates, members of which, how qualified, and for what places chosen. When a corporations right to representation shall cease.

VI. THE other shall be called the Senate, and consist of twenty-four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty-four districts, and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and from the poll so taken in their respective counties return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

Of what number of members the other, called the Senate, shall consist, and how they shall be chosen.

VII. THAT the right of suffrage in the election of members of both Houses shall remain as exercised at present, and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies.

Each House may choose its Speaker and officers, and issue writs for supplying vacancies.

VIII. ALL laws shall originate in the House of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates, except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

Laws shall originate in the House of Delegates, but, if not money bills, amendable by the Senate.

Governor, how choſen, method of balloting in this and other caſes; his ſalary and powers; reſtrained from granting reprieves or pardons in certain caſes.

IX. A GOVERNOR, or Chief Magiſtrate, ſhall be choſen annually, by joint ballot of both Houſes, to be taken in each Houſe reſpectively, depoſited in the conference room, the boxes examined jointly by a Committee of each Houſe, and the numbers ſeverally reported to them, that the appointments may be entered (which ſhall be the mode of taking the joint ballot of both Houſes in all caſes) who ſhall not continue in that office longer than three years ſucceſſively, nor be eligible until the expiration of four years after he ſhall have been out of that office. An adequate, but moderate ſalary, ſhall be ſettled on him during his continuance in office; and he ſhall, with the advice of a Council of State, exerciſe the executive powers of government according to the laws of this commonwealth; and ſhall not, under any pretence, exerciſe any power or prerogative by virtue of any law, ſtatute, or cuſtom, of *England*: But he ſhall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the proſecution ſhall have been carried on by the Houſe of Delegates, or the law ſhall otherwiſe particularly direct; in which caſes, no reprieve or pardon ſhall be granted, but by reſolve of the Houſe of Delegates.

When he may convoke the General Aſſembly.

X. EITHER Houſe of the General Aſſembly may adjourn themſelves reſpectively. The Governor ſhall not prorogue or adjourn the Aſſembly during their ſitting, nor diſſolve them at any time; but he ſhall, if neceſſary, either by advice of the Council of State, or on application of a majority of the Houſe of Delegates, call them before the time to which they ſhall ſtand prorogued or adjourned.

Privy Council, number of; their duty, power, and time of continuance in office.

XI. A PRIVY Council or Council of State, conſiſting of eight members, ſhall be choſen by joint ballot of both Houſes of Aſſembly, either from their own members or the people at large, to aſſiſt in the adminiſtration of government. They ſhall annually chooſe out of their own members a Preſident, who, in caſe of the death, inability, or neceſſary abſence of the Governor from the government, ſhall act as Lieutenant Governor. Four members ſhall be ſufficient to act, and their advice and proceedings ſhall be entered of record, and ſigned by the members preſent (to any part whereof any member may enter his diſſent) to be laid before the General Aſſembly, when called for by them. This Council may appoint their own clerk, who ſhall have a ſalary ſettled by law, and take an oath of ſecrecy in ſuch matters as he ſhall be directed by the Board to conceal. A ſum of money appropriated to that purpoſe ſhall be divided annually among the members, in proportion to their attendance; and they ſhall be incapable during their continuance in office, of ſitting in either Houſe of Aſſembly. Two members ſhall be removed by joint ballot of both Houſes of Aſſembly at the end of every three years, and be ineligible for the three next years. Theſe vacancies, as well as thoſe occaſioned by death or incapacity, ſhall be ſupplied by new elections, in the ſame manner.

Delegates to Congreſs, how choſen.

XII. THE Delegates for *Virginia* to the Continental Congreſs ſhall be choſen annually, or ſuperſeded in the mean time by joint ballot of both Houſes of Aſſembly.

Military regulations.

XIII. THE preſent militia officers ſhall be continued, and vacancies ſupplied by appointment of the Governor, with the advice of the Privy Council, or recommendations from the reſpective County Courts; but the Governor and Council ſhall have a power of ſuſpending any officer, and ordering a court-martial on complaint of miſbehaviour or inability, or to ſupply vacancies of officers happening when in actual ſervice. The Governor may embody the militia, with the advice of the Privy Council, and when embodied, ſhall alone have the direction of the militia under the laws of the country.

Courts of Appeals, General, of Equity, and Admiralty, judges of; Secretary, and Attorney General, how appointed; ſalaries of; excluded with ſome others, from the Legiſlative and Executive.

XIV. THE two Houſes of Aſſembly ſhall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney General, to be commiſſioned by the Governor, and continue in office during good behaviour. In caſe of death, incapacity, or reſignation, the Governor, with the advice of the Privy Council, ſhall appoint perſons to ſucceed in office, to be approved or diſplaced by both Houſes. Theſe officers ſhall have fixed and adequate ſalaries, and, together with all others holding lucrative offices, and all Miniſters of the Goſpel of every denomination, be incapable of being elected members of either Houſe of Aſſembly, or the Privy Council.

Counties, Juſtices of, how appointed; ſhall nominate their clerks, recommend ſheriffs and coroners to be commiſſioned

XV. THE Governor, with the advice of the Privy Council, ſhall appoint Juſtices of the Peace for the counties; and in caſe of vacancies, or a neceſſity of increaſing the number hereafter, ſuch appointments to be made upon the recommendation of the reſpective County Courts. The preſent acting Secretary in *Virginia*, and clerks of all the County Courts, ſhall continue in office. In caſe of vacancies, either by death, incapacity, or reſignation, a Secretary ſhall be appointed as before directed, and the clerks by the reſpective

courts. The preſent and future clerks ſhall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners ſhall be nominated by the reſpective courts, approved by the Governor, with the advice of the Privy Council, and commiſſioned by the Governor. The Juſtices ſhall appoint conſtables, and all fees of the aforeſaid officers be regulated by law.

by Executive; and appoint conſtables.

XVI. THE Governor, when he is out of office, and others offending againſt the ſtate, either by mal-adminiſtration, corruption, or other means by which the ſafety of the ſtate may be endangered, ſhall be impeachable by the Houſe of Delegates. Such impeachment to be proſecuted by the Attorney General, or ſuch other perſon or perſons as the Houſe may appoint in the General Court, according to the laws of the land. If found guilty, he or they ſhall be either for ever diſabled to hold any office under government, or removed from ſuch office *pro tempore*, or ſubjected to ſuch pains or penalties as the law ſhall direct.

Impeachments.

XVII. IF all, or any of the Judges of the General Court, ſhall, on good grounds (to be judged of by the Houſe of Delegates) be accuſed of any of the crimes or offences beforementioned, ſuch Houſe of Delegates may, in like manner, impeach the Judge or Judges ſo accuſed, to be proſecuted in the Court of Appeals; and he or they, if found guilty, ſhall be puniſhed in the ſame manner as is preſcribed in the preceding clauſe.

XVIII. COMMISSIONS and grants ſhall run *In the name of the* COMMONWEALTH *of* VIRGINIA, and bear teſt by the Governor, with the ſeal of the Commonwealth annexed. Writs ſhall run in the ſame manner, and bear teſt by the clerks of the ſeveral courts. Indictments ſhall conclude, *Againſt the peace and dignity of the Commonwealth.*

Commiſſions grants and writs, ſtile, and teſte of. Indictments, concluſion of.

XIX. A TREASURER ſhall be appointed annually, by joint ballot of both Houſes.

Treaſurer.

XX. ALL eſcheats, penalties, and forfeitures, heretofore going to the King, ſhall go to the Commonwealth, ſave only ſuch as the Legiſlature may aboliſh, or otherwiſe provide for.

Eſcheats, penalties, forfeitures,

XXI. THE territories contained within the charters erecting the colonies of *Maryland, Pennſylvania, North* and *South-Carolina*, are hereby ceded, releaſed, and for ever confirmed to the people of thoſe colonies reſpectively, with all the rights of property, juriſdiction, and government, and all other rights whatſoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and uſe of the rivers *Patowmac* and *Pohomoke*, with the property of the *Virginia* ſhores or ſtrands bordering on either of the ſaid rivers, and all improvements which have been or ſhall be made thereon. The weſtern and northern extent of *Virginia* ſhall in all other reſpects ſtand as fixed by the charter of King *James* the firſt, in the year one thouſand ſix hundred and nine, and by the public treaty of peace between the Courts of *Great-Britain* and *France*, in the year one thouſand ſeven hundred and ſixty-three; unleſs, by act of Legiſlature, one or more territories ſhall hereafter be laid off, and governments eſtabliſhed weſtward of the *Allegheny* mountains. And no purchaſe of lands ſhall be made of the *Indian* natives but on behalf of the public, by authority of the General Aſſembly.

Territorial limits; ceſſion to co-terminous ſtates; future governments weſt of Mount Allegheny how to be eſtabliſhed.

No purchaſe from Indian natives, but for republic.

XXII. IN order to introduce this government, the repreſentatives of the people met in Convention ſhall chooſe a Governor and Privy Council, alſo ſuch other officers directed to be choſen by both Houſes as may be judged neceſſary to be immediately appointed. The Senate to be firſt choſen by the people, to continue until the laſt day of *March* next, and the other officers until the end of the ſucceeding ſeſſion of Aſſembly. In caſe of vacancies, the Speaker of either Houſe ſhall iſſue writs for new elections.

At a *General Assembly* summoned to be held at the Capitol in the City of *Williamsburg*, on the 1st Day of *August*, in the 9th Year of the Reign of *George* the Second of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and from thence continued by several Prorogations to the 5th Day of *August*, in the 10th Year of his said Majesty's Reign, and in the Year of our Lord 1736.

C H A P. III.

An Act for confirming and better securing the Titles to Lands *in the* Northern Neck, *held under the Right Honorable* Thomas *Lord* Fairfax, *Baron of* Cameron, *in that Part of* Great-Britain, *called* Scotland.

Recital of the patent, 21 *Car.* 2. wherein is recited another patent 1 *ejusdem Regis.*

I. WHEREAS the late King *Charles* II. by certain letters patents, under the great seal of *England*, bearing date at *Westminster*, the eighth day of *May*, in the one and twentieth year of his reign, reciting, that he, taking into his royal consideration the propagation of the *Christian* faith, and the manifold benefits arising to the church of God, together with the welfare of multitudes of his loyal subjects, by the undertaking and vigorous prosecution of plantations of foreign parts, and particularly in his dominions of *America*, by his letters patent, under the great seal of *England*, bearing date at *St. Germains en Ley*, the eighteenth day of *September*, in the first year of his reign, for the consideration therein expressed, had given, granted, and confirmed, unto *Ralph* Lord *Hopton*, *Henry* Earl of *St. Alban's*, by the then name of *Henry* Lord *Jermyn*, *John* Lord *Culpeper*, *John* Lord *Berkeley*, of *Stratton*, by the then name of Sir *John Berkeley*, Sir *William Morton*, one of the Justices of his court of *King's Bench*, by the then name of Sir *William Morton*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, their heirs and assigns, for ever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded within the heads of the rivers *Rappahannock* and *Quiriough*, or *Patowmac* river, the courses of the said rivers, as they are commonly called and known by the inhabitants, and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, and rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of Sea, fish royal, deer, wild beasts, and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, and arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalty of hawking and hunting, for themselves, their heirs, and assigns, servants, and tenants, in and upon the lands and premises aforesaid; saving and reserving to him, his heirs and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, or silver ore, thereafter to be found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Ralph* Lord *Hopton*, *Henry* then Lord *Jermyn*, now Earl of *St. Alban's*, *John* Lord *Culpeper*, Sir *John Berkeley*, now Lord *Berkeley*, of *Stratton*, Sir *William Morton*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, their heirs, and assigns, for ever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of St. *John* the Baptist, to his said Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown*, in the dominion of *Virginia*, in lieu of all services and demands whatsoever:

Reciting also that the said *Ralph* Lord *Hopton*, *John* Lord *Culpeper*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, being dead, and the said Lord *Hopton* having sold his estate and interest in the premises to *John Trethewey*, Esq; the said tract, territory, or parcel of land, and all and singular other the premises, had been surrendered, together with the said letters patents, to be cancelled, to the intent that his said late Majesty might grant them new letters patent thereof, with such alterations, provisoes, and clauses, as therein after is expressed, he the said late King, in consideration of the said surrender, and for and in consideration of the many and faithful services done to his late royal father, of blessed memory, and to himself, by the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, Esq; and for divers other good causes and considerations him thereunto especially moving, of his especial grace, certain knowledge, and mere motion, did give, grant, and confirm, unto the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, for ever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded by and within the head of the rivers *Tappahannock*, alias *Rappahannock*, and *Quiriough*, alias *Patowmac* rivers, the courses of the said rivers, as they are commonly called and known by the inhabitants and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of sea, fish royal, deer, wild beast and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalties of hawking and hunting, for themselves, their heirs and assigns, servants and tenants, in and upon the land and premises aforesaid, and in and upon every part and parcel thereof; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of the whole, in five parts to be divided, of all gold mines, or gold ore, one full tenth part of all silver mines, and silver ore, thereafter to be had or found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, for ever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of St. *John* the Baptist, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown* in *Virginia*, in lieu of all services and demands whatsoever; with power to divide the said tract or territory of land into counties, hundreds, parishes, tithings, townships, hamlets, and boroughs, and to erect and build cities, towns, parish churches, colleges, chapels, free schools, alms houses, and houses of correction, and to endow the same, at their free wills and pleasures; and did appoint them full and perpetual patrons of all such churches so to be built and endowed, with power of electing, nominating, and presenting, any fit person to the office and place of master of any college, or schoolmaster of any school, so to be founded and endowed; with power also to divide any part or parcels of the said tract or territory, or portion of lands, into manors, and to call the same after their own or any of their names, or by other name or names whatsoever, and within the same to hold a court, in the nature of a court baron, and to hold pleas of all actions, trespasses, covenants, accounts, contracts, detinues, debts, and demands whatsoever, where the debt or thing demanded exceed not the value of forty shillings of current money of *England*, and to receive and take all amerciaments, fines, commodities, advantages, perquisites, and emoluments whatsoever, to such respective court barons belonging, or in any wise appertaining: And further, to hold within the said manors a court leet, and view of frank pledge, of all the tenants, residents, and inhabitants, of the hundreds within such respective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto; and to erect parks for breeding, feeding, and sustentation of deer, and other wild beasts of chase: And further, the said late King, by the said charter, for himself, his heirs, and successors, did grant and give license to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, freely, and without molestation of him, his heirs, and successors, to give, grant, or by any ways or means sell or alien, all and singular the premises by these presents granted, and every part and parcel thereof, to any person or persons being willing to contract for or buy the same; to be holden of the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, as of any of their aforesaid manors, in free and common soccage, by fealty only, and

The death of some of the first patentees, Lord *Hopton's* sale, and the surrender of the first patent.

Consideration.

The grant.

Habendum.

Reservation of rent.

The powers granted to the patentees.

1736.

by suit of court, or by any other lawful tenure or terms used within the kingdom of *England*; rendering and paying such rents, and other lawful reservations, as shall seem fit and convenient to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, notwithstanding the statute, commonly called *quia emptores terrarum*, or any other statute, act, or ordinance, or provision, or any other thing, cause, or matter whatsoever, to the contrary notwithstanding: And further, the said late King, for himself, his heirs, and successors, did grant to the said patentees, their heirs, executors, and assigns, to enlarge and confirm the said letters patent, by granting to them and their heirs other new ones, with such favourable concessions and grants as might supply any defects therein contained; with this proviso, nevertheless, that the said letters patent, or any thing therein contained, should not extend, or be construed to extend, to infringe, make void, or other ways prejudice, any contract or contracts, grant or grants, whatsoever, theretofore made or granted by the Governor and Council of *Virginia*, unto any planters, or other inhabitants, then in the actual possession thereof, by virtue of any such grants made before the nine and twentieth day of *September*, in the thirteenth year of his reign; but if any part of such lands so granted should escheat, or be otherwise forfeited, then the said patentees, their heirs, and assigns, might dispose thereof, for their best benefit and advantage, at their own free wills and pleasures; with this proviso also, that so much of the said granted premises, as within the time and space of one and twenty years then next following should not be possessed, inhabited, or planted, by the means or procurement of the said patentees, their heirs, or assigns, that then the said letters patent should cease, determine, and become void; and lastly, with this further proviso, that the said patentees, their heirs, and assigns, should not act or intermeddle in the military affairs or forces of or within the said tract of land and premises thereby granted, or any part thereof, or with the government or command of any of the castles, forts, or fortifications thereof, without the order, authority, or command, of the Governor and Council of *Virginia* for the time being, or such other person or persons as his said late Majesty, his heirs, or successors, should think fit to dispose the same; and that the Governor, Council, and Assembly of *Virginia*, for the time being, should have full power and authority to impose and lay any taxes and impositions upon the said territories thereby granted, and all the lands and premises thereby meant and intended to be granted, and all and every the possessor, inhabitants thereof, for the public and common defence of the said colony of *Virginia*, and the territory and lands thereby granted, as upon other parts of *Virginia*, proportionably, when and as often as the necessity of the said colony should require the same for the common good; and that the said patentees, their heirs, and assigns, and other inhabitants of or in the premises, should be in all things subject and obedient to such laws and constitutions as were or should be made by the said Governor, Council, and Assembly, for or concerning the said colony, or the government thereof, any thing therein before contained to the contrary notwithstanding, as in the said letters patent more fully is contained.

[Margin: New patent to be granted.]

[Margin: Proviso, as to seating.]

[Margin: Patentees not to intermeddle with military affairs.]

[Margin: Inhabitants subject to the payment of taxes.]

[Margin: And the laws of the colony.]

II. AND whereas the late King *James* II. by other letters patent, under the great seal of *England*, bearing date at *Westminster* the seven and twentieth day of *September*, in the fourth year of his reign, reciting the above recited letters patents, and that the said former patentees, their heirs, and assigns, had, by good and sufficient conveyance and assurance in the law, for valuable considerations, sold, conveyed, and assured, the said whole tract, territory, and portion of land, and all and singular the premises, and every part and parcel thereof, and all their estate, right, title, and interest therein, together with the said letters patents, unto *Thomas* Lord *Culpeper*, eldest son and heir of *John* late Lord *Culpeper*, deceased, his heirs, and assigns, for ever, who was thereby become sole owner and proprietor thereof, in fee simple, for the considerations therein mentioned, did give, grant, and confirm, unto the said *Thomas* Lord *Culpeper*, all that entire tract, territory, or parcel of land, situate, lying, and being in *Virginia*, in *America*, and bounded by and within the first heads or springs of the rivers of *Tappahanock* (alias *Rappahanock*) and *Quiriough* (alias *Patowmack*) rivers, the courses of the said rivers, from their said first heads or springs, as they were commonly called and known by the inhabitants, and descriptions of those parts, and the bay of *Chesapeake*, together with the said rivers themselves, and all the islands within the uttermost banks thereof, and the soil of all and singular the premises, and all lands, woods, under woods, timber, and trees, ways, mountains, swamps, marshes, waters, rivers, ponds, pools, lakes, water courses, fishings, streams, havens, ports, harbours, bays, creeks, ferries, with all sorts of fish, as well whales, sturgeons, and other royal fishes, as all others whatsoever, wrecks of sea, *Floatson*, *Jetson*, and *Lagan*, and all sorts of deer, wild beasts, and fowl, of what nature or kind soever, and all manner of deodands, goods of felons and fugitives, treasures trove, waifs, strays, fines, forfeitures, escheats, advowsons, royalties, and heredita-

[Margin: Recital of the patent, 4 *Jac.* 2. which recites the beforementioned letters patents, and the sale to the Lord Culpeper.]

[Margin: The grant.]

ments whatsoever, with all mines of gold and silver, lead, tin, iron, and copper, and all quarries of stone and coal, within the limits and precincts aforesaid, which then were, or at any time thereafter should be had, coming, being, arising, growing, renewing, accruing, found, or taken, within the bounds, limits, precincts, or places aforesaid; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, and silver ore, then being, or which thereafter should be had or found, within the said tract or territory of land; to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and every part and parcel thereof, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Thomas* Lord *Culpeper*, his heirs, and assigns, for ever, to his and their only use and behoof, and to no other use, intent, or purpose whatsoever; yielding and paying therefore, yearly, from thenceforth, on the feast of St. *John* the Baptist, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown*, in the colony of *Virginia*, in lieu of all services and demands whatsoever, the first payment to be made on the feast day of St. *John* the Baptist next ensuing the date of the said letters patent: And his said late Majesty did thereby, for himself, his heirs, and successors, further give, grant, ratify, and confirm, to the said *Thomas* Lord *Culpeper*, his heirs, and assigns, for ever, all and singular the grants, powers, authorities, privileges, licenses, and clauses, in the said herein before recited letters patents mentioned, granted, or conveyed, in as large and ample manner, to all intents and purposes whatsoever, as if the same, and every of them, had been particularly granted and expressed in these his letters patent, except only the abovementioned proviso,; and his said late Majesty did further, of his especial grace, certain knowledge, and mere motion, for himself, his heirs, and successors, fully and absolutely, for ever, release and discharge the said abovementioned proviso, and every part thereof, and every matter and thing therein contained, in as large and ample manner, to all intents and purposes whatsoever, as if the same had never been made, thereby declaring the same to be null and void, and the said *Thomas* Lord *Culpeper*, his heirs, and assigns, and the tract, territory, and premises, and every part thereof, to be for ever freed, cleared and discharged, from the same, so and in such manner that the said *Thomas* Lord *Culpeper*, his heirs, and assigns, might freely and absolutely enter into, have, hold, occupy, possess, and enjoy, the said tract, territory, and all and singular other the premises, freed and discharged of the said proviso, and all right, title, and equity, thereupon to be had, in as large, ample, and beneficial manner, to all intents and purposes, as if the same proviso had been never had or made, any thing in the said recited letters patent, or any thing therein, or in the last mentioned letters patent, to the contrary thereof, in any wise notwithstanding, as in the said last recited letters patent more is fully contained.

Habendum.

Reservation of rent.

III. AND whereas the Right Honourable *Thomas* Lord *Fairfax*, baron of *Cameron*, in that part of *Great-Britain* called *Scotland*, heir at law to the said *Thomas* Lord *Culpeper*, is now become sole proprietor of the said territory, with the appurtenances, and the above recited letters patents; and whereas divers great quantities of land have been granted to adventurers and planters within the said territory, in fee simple, by the agents and attornies of the said Lord *Fairfax*, and his predecessors, former proprietors of the said territory, and letters patents, by virtue of divers letters of attorney, from time to time, by them respectively given and granted to their said attornies and agents, but now of late, after long possessions, and great and valuable improvements made upon the said lands, by such grantees, questions are like to arise between them and the said present proprietor touching the validity of such grants, as well in respect to a construction set up and maintained, of the said letters of attorney, that the powers therein contained were not full and sufficient to enable and warrant the said agents and attornies to pass away estates in fee simple, as in respect of the said Lord proprietor's estate in the premises, the same being now held by him as tenant in taille, under the will or wills of some of his ancestors, whereby the minds of many of his Majesty's good subjects, possessors of lands and tenements within the said territory, are greatly disquieted, and many controversies and expensive lawsuits may probably ensue: For the prevention whereof, and for settling peace between his Lordship and his said tenants,

That the validity of grants made by the agents or attornies of the present proprietor and his predecessors, have been questioned.

IV. *BE it enacted, by the Lieutenant Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, that from henceforth all and every grant and grants, heretofore duly and regularly made and passed, by any of the agents or attornies of the proprietors of the said territory, or any of them, shall be good, available, and binding in law, to pass such estate or estates as therein have been granted; and the grantees, their heirs, and assigns, respectively, shall for ever hereafter peaceably and

A confirmation of these grants.

1748.

quietly have, hold, and enjoy, the same granted premises, according to such granted estates, under the rents and services by the said grants reserved, notwithstanding the infancy, coverture, or any misprision or mistake of the names, dignity, or title, of the said proprietors, or either of them, or any misrecital, omission, or defect, in the said grant or grants, or any of them, so as the same have been made and signed by the agents or attornies of the said proprietors, or the husband, guardian or guardians, trustee or trustees, of any of them, and passed under the common seal of the office kept by them for that purpose.

At a *General Assembly* begun and held at the College in *Williamsburg*, the 27th Day of *October*, in the 22d Year of the Reign of *George* the Second, by the Grace of God, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and in the Year of our Lord 1748.

CHAP. IV.

An Act for confirming the Grants made by his Majesty within the Bounds of the Northern Neck, *as they are now established.*

Preamble.

I. WHEREAS in the late dispute and controversy touching the limits and boundaries of the several letters patent granted by their late Majesties King *Charles* the Second and King *James* the Second, unto the ancestors of the Right Honorable *Thomas* Lord *Fairfax*, it hath been adjudged and determined by his present Majesty in Council, that the said letters patent do include all that tract or territory of land between the rivers *Patowmac* and *Rappahanock*, and the line now marked from the head spring of the said river *Patowmac* to the head spring of *Rappahannock*, commonly called the *Conway*, in which said tract or territory of land, as is before described, many adventurers and planters have taken up great quantities of land, and obtained grants and patents thereof from the Crown, under seal of this colony; and whereas the said *Thomas* Lord *Fairfax* hath consented, before the King, in Council, that the several grants and patents, made by the Crown, of the lands included in the boundary aforesaid, should be confirmed to the several grantees, their heirs and assigns, to be held nevertheless of the said Lord *Fairfax*, under the like rents, services, profits, and emoluments, as should be paid, done, and arise, by and from the said grants made by the Crown:

Grants from the Crown of lands in the *Northern Neck* confirmed, but the rents and services shall be to the Lord *Fairfax*, and his heirs.

II. *BE it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, that all grants and patents whatsoever under the seal of this colony, for lands situate and lying within the limits and boundaries of the letters patent granted to the ancestors of the said Lord *Fairfax*, as the same are now settled and determined, heretofore made and granted by the Crown, shall be held, deemed, and taken, to be valid and effectual; and the adventurers and planters to whom the same were granted, their heirs and assigns, shall for ever hereafter peaceably and quietly have, hold, and enjoy, the said granted premises, respectively, according to such granted estates, under the rents and services in the said grants reserved, to be paid and performed to the said *Thomas* Lord *Fairfax*, his heirs and assigns, for ever, any mis-recital or defect in the said grants notwithstanding.

At a *General Assembly*, begun and held at the CAPITOL, in the City of *Williamsburg*, on *Monday*, the 5th Day of *October*, in the Year of our Lord 1778.

CHAP. V.

An Act to empower the Freeholders of the several Towns not incorporated, to supply the Vacancies of the Trustees and Directors thereof.

[Passed the 11th of December, 1778.]

Vacancies shall be supplied by election of freeholders summoned by sheriff upon notice; who shall certify to court the names of the elected.

I. BE *it enacted by the General Assembly*, That upon the death, removal out of the country, or other legal disability of any one or more of the Trustees and Directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: The surviving Trustees and Directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a Trustee in the room of the one so dying, removing, or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote, the sheriff shall close the poll, and return the same to the next Court to be held for his County, upon oath, certifying the name of the person elected, to be by the Clerk recorded.

II. EVERY person elected in manner directed by this act, shall to all intents and purposes, be a Trustee of the town for which he was chosen.

III. SO much of all Acts of Assembly as are contrary to the purview and meaning of this Act, are hereby repealed.

At a *General Aſſembly*, begun and held at the Public Buildings, in the Town of *Richmond*, on *Monday*, the 6th Day of *May*, in the Year of our Lord 1782.

CHAP. VI.

An Act concerning Wrecks.

[Paſſed the 20th of June, 1782.]

Preamble.

I. WHEREAS many veſſels, have been and may hereafter be ſtranded on the ſea coaſt, bay or river ſhores within this Commonwealth, and the goods or other property belonging to ſuch veſſels may be embezzled and ſtolen, to the great injury of the owners: For remedy whereof, *Be it enacted by the General Aſſembly*, That it ſhall be lawful for the Governor, with advice of Council, and he is hereby required, to appoint and commiſſion two diſcreet perſons in each of the counties bordering on the ſea or bay ſhores in this State, whoſe buſineſs and duty it ſhall be, on the earlieſt intelligence, or on application to them made, by or on behalf of any owner or commander of a ſhip or other veſſel being in danger of being ſtranded, or being ſtranded, to command any Conſtable or Conſtables, to be appointed by them for that purpoſe, neareſt the coaſt where ſuch ſhip or veſſel ſhall be in danger, to ſummon as many men as ſhall be thought neceſſary to the aſſiſtance of ſuch ſhip or veſſel; and if there ſhall be any ſhip or veſſel belonging to the State riding near the place, the Commiſſioner or Commiſſioners ſhall have power to demand of the commanding officer of ſuch ſhip or veſſel, aſſiſtance by their boats and ſuch hands as they can conveniently ſpare; and if any commanding officer ſhall neglect to give ſuch aſſiſtance, he ſhall forfeit one hundred pounds, to be recovered by the officer or owner of the ſhip in diſtreſs, with coſts, in any Court of Record within this Commonwealth. The Commiſſioner or Commiſſioners, and the commanding officer of any ſhip or veſſel, and all others who ſhall aſſiſt in preſerving any ſhip or other veſſel in diſtreſs, or their cargoes, ſhall, within forty days, be paid a reaſonable reward by the commander or owner of the ſhip or other veſſel in diſtreſs, or by the merchant whoſe veſſel or goods ſhall be ſaved, and in default thereof, the veſſel or goods ſhall remain in the cuſtody of the Commiſſioner or Commiſſioners until all charges be paid, or ſecurity given for that purpoſe, to the ſatisfaction of the parties. And in caſe the parties ſhall diſagree touching the monies deſerved by the perſons employed, it ſhall be lawful for the commander of ſuch veſſel ſaved, or the owner of the goods, or merchant intereſted, to chooſe one indifferent perſon, and alſo for the Commiſſioner or Commiſſioners to nominate one other indifferent perſon, who ſhall adjuſt the *quantum* of the gratuities to be paid to the ſeveral perſons, and ſuch adjuſtments ſhall be binding on all parties, and to be recoverable, with coſts, in any Court of Record within this Commonwealth, by action on the caſe. If no perſon ſhall claim the goods ſaved, the Commiſſioners, or one of them, ſhall take poſſeſſion thereof, and cauſe a true deſcription of the marks, numbers, and kinds of ſuch goods to be advertiſed four weeks in the *Virginia* Gazette, and if no perſon ſhall claim the ſame within three months, public ſale ſhall be made thereof, (but if periſhable, the goods ſhall be forthwith ſold) and after charges deducted, the reſidue of the money, with an account of the whole, ſhall be tranſmitted to the Treaſurer, who ſhall keep an account of the ſame, for the benefit of the owners, who upon proof of his property to the ſatisfaction of the Auditors, ſhall upon their warrant receive the ſame. If any perſon beſides thoſe empowered by the Commiſſioners, or one of them, ſhall enter or endeavour to enter on board any veſſel in diſtreſs, without the leave of the commanding officer, or in caſe any perſon ſhall moleſt them in ſaving the veſſel or goods, or ſhall endeavour to hinder the ſaving ſuch veſſel or goods, or ſhall deface the marks of any ſuch goods before they be taken down in a book by the Commiſſioners, or one of them, every ſuch perſon ſhall forfeit and pay the ſum of ten pounds, to be recovered with coſts, by information in any Court of Record within this Commonwealth, and applied to the uſe of the owners of the veſſel or goods, as the caſe may be; and in caſe of failure to pay ſuch forfei-

Commiſſioners to be appointed on the ſea and bay ſhores.

Their duty on intelligence of a veſſel ſtranded or in danger.

Thoſe who aſſiſt in ſaving a veſſel or cargo, to have a reward;

and may retain veſſel or goods till reward paid or ſecured.

Reward how to be aſcertained.

Proceeding if the goods ſaved be not claimed.

Penalty on thoſe who intermeddle without power from Commiſſioners.
Or hinder thoſe employed in ſaving the goods.
Or deface the marks.

1783.

ture immediately, or giving security to pay the same within one month, he, she, or they, shall receive ten lashes on his, her, or their bare back, by order of such Court. It shall be lawful for any commanding officer of a vessel in distress, or the Commissioners, to repel by force any persons as shall, without consent as aforesaid, press on board any vessel in distress, and thereby molest them in preserving the vessel or goods; and in case any goods shall be found upon any person that were stolen or carried off from any vessel in distress, the person on whom such goods be found, shall, upon demand, deliver the same to the owner or Commissioners, or to such other person as shall be authorised by the Commissioners or owner to receive such goods, or shall be liable to pay treble the value, to be recovered, with costs, in any Court of Record. If any person shall make or be assisting in making a hole in any vessel in distress, or steal any pump, materials, or goods, or shall be aiding in stealing such pump, materials, or goods, from any vessel, or shall wilfully do any thing tending to the immediate loss of such vessel, such person shall be guilty of felony, and suffer death without benefit of clergy; any Commissioner by fraud or wilful neglect, abusing the trust reposed in him, shall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with costs, by action on the case in any Court of Record, and shall thenceforth be incapable of acting as a Commissioner. Any Constable, or person, summoned by him, refusing or neglecting to give the assistance required for the saving of any vessel or her cargo, shall forfeit and pay twenty-five shillings, to be recovered before any Justice, by the Commissioners ordering the duty, and shall be moreover subject to the payment of the same damages, and to be recovered by the party aggrieved in the same manner, as in the case of a Commissioner. The Commissioners shall set up a copy of this Act once in every year in each of the Courthouses of the Counties wherein they respectively reside.

Commissioners may repel force by force. Goods carried from a vessel in distress and found in any person's possession to be restored. Penalty. Death to make a hole in a vessel in distress. Or steal pump materials or goods; or do any thing tending to the loss of the vessel. Penalty on Commissioner abusing his trust; and on constable and assistants for neglect. Act to be set up in each courthouse.

II. *PROVIDED always, and be it further enacted*, That the Commissioners appointed by virtue of this act, shall respectively give bond and security in the Court of the County where he resides, in the sum of one thousand pounds, for the due and faithful execution of his office, and that it shall not be lawful for such Commissioner, or any of them, to enter upon the duties of his office before he gives bond and security as aforesaid.

Commissioners to give bond and security.

III. *AND be it further enacted*, That where any vessel shall be stranded and totally lost, goods saved from the wreck shall not be liable to entry and duties; but if any vessel be drove or cast on shore, and the damage sustained on the goods does not appear to exceed ten *per centum*, in the judgment of the Commissioners, such goods shall be duly entered with the Naval Officer nearest the place where the case happened, according to law.

If vessel totally lost, goods saved to pay no duty. If vessel cast on shore, and the damage on the goods not more than ten *per cent*, goods to be entered & pay duty.

At a *General Assembly*, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord, 1783.

CHAP. VII.

An Act to authorise the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the Right of this Commonwealth to the Territory North Westward of the River OHIO.

[Passed the 20th of December, 1783.]

I. WHEREAS the Congress of the United States did, by their Act of the sixth day of *September*, in the year one thousand seven hundred and eighty, recommend to the several States in the Union, having claims to waste and unappropriated lands in the Western Country, a liberal Cession to the United States, of a portion of their respective claims for the common benefit of the Union.

Preamble.

II. AND whereas this Commonwealth did, on the second day of *January*, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States,

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for the benefit of the ſaid States, all right, title, and claim, which the ſaid Commonwealth had to the territory North-weſt of the river *Ohio*, ſubject to the conditions annexed to the ſaid act of Ceſſion.

III. AND whereas the United States in Congreſs aſſembled, have by their Act of the thirteenth of *September* laſt, ſtipulated the terms on which they agree to accept the ceſſion of this State, ſhould the Legiſlature approve thereof, which terms, although they do not come fully up to the propoſitions of this Commonwealth, are conceived on the whole, to approach ſo nearly to them, as to induce this State to accept thereof, in full confidence that Congreſs will, in juſtice to this State for the liberal Ceſſion ſhe hath made, earneſtly preſs upon the other States claiming large tracts of waſte and uncultivated territory, the propriety of making ceſſions equally liberal for the common benefit and ſupport of the Union: *Be it enacted by the General Aſſembly*, that it ſhall and may be lawful for the Delegates of this State to the Congreſs of the United States, or ſuch of them as ſhall be aſſembled in Congreſs, and the ſaid Delegates, or ſuch of them ſo aſſembled, are hereby fully authorized and empowered, for and on behalf of this ſtate, by proper deeds or inſtrument in writing, under their hands and ſeals, to convey, transfer, aſſign, and make over unto the United States in Congreſs aſſembled, for the benefit of the ſaid States, all right, title, and claim, as well of ſoil as juriſdiction, which this Commonwealth hath to the territory or tract of country within the limits of the *Virginia* charter, ſituate, lying, and being to the North-weſt of the river *Ohio*, ſubject to the terms and conditions contained in the before recited Act of Congreſs of the thirteenth day of *September* laſt, that is to ſay: Upon condition that the territory ſo ceded ſhall be laid out and formed into States, containing a ſuitable extent of territory, not leſs than one hundred, nor more than one hundred and fifty miles ſquare, or as near thereto as circumſtances will admit; and that the States ſo formed, ſhall be diſtinct Republican States, and admitted members of the Fœderal Union, having the ſame rights of ſovereignty, freedom, and independence, as the other States; that the neceſſary and reaſonable expenſes incurred by this State in ſubduing any *Britiſh* poſts, or in maintaining forts or garriſons within and for the defence, or in acquiring any part of the territory ſo ceded or relinquiſhed, ſhall be fully reimburſed by the United States; and that one Commiſſioner ſhall be appointed by Congreſs, one by this Commonwealth, and another by thoſe two Commiſſioners, who, or a majority of them, ſhall be authoriſed and empowered to adjuſt and liquidate the account of the neceſſary and reaſonable expences incurred by this State, which they ſhall judge to be compriſed within the intent and meaning of the Act of Congreſs of the tenth of *October*, one thouſand ſeven hundred and eighty, reſpecting ſuch expences. That the *French* and *Canadian* inhabitants, and other ſettlers of the *Kaſkaſkies*, *St. Vincents*, and the neighbouring villages, who have profeſſed themſelves citizens of *Virginia*, ſhall have their poſſeſſions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thouſand acres of land, promiſed by this State, ſhall be allowed and granted to the then Colonel, now General *George Rogers Clarke*, and to the officers and ſoldiers of his regiment, who marched with him when the poſts of *Kaſkaſkies* and *St. Vincents* were reduced, and to the officers and ſoldiers that have been ſince incorporated into the ſaid regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in ſuch place on the North-weſt ſide of the *Ohio* as a majority of the officers ſhall chooſe, and to be afterwards divided among the ſaid officers and ſoldiers in due proportion according to the laws of *Virginia*. That in caſe the quantity of good lands on the South-eaſt ſide of the *Ohio*, upon the waters of *Cumberland* river, and between the *Green* river and *Teniſee* river, which have been reſerved by law for the *Virginia* troops upon Continental eſtabliſhment, ſhould, from the *North-Carolina* line bearing in further upon the *Cumberland* lands than was expected, prove inſufficient for their legal bounties, the deficiency ſhould be made up to the ſaid troops in good lands, to be laid off between the rivers *Scioto* and *Little Miami*, on the North-weſt ſide of the river *Ohio*, in ſuch proportions as have been engaged to them by the laws of *Virginia*. That all the lands within the territory ſo ceded to the United States, and not reſerved for or appropriated to any of the beforementioned purpoſes, or diſpoſed of in bounties to the officers and ſoldiers of the *American* army, ſhall be conſidered as a common fund for the uſe and benefit of ſuch of the United States as have become, or ſhall become members of the Confederation or Fœderal Alliance of the ſaid States, *Virginia* incluſive, according to their uſual reſpective proportions in the general charge and expenditure, and ſhall be faithfully and *bona fide* diſpoſed of for that purpoſe, and for no other uſe or purpoſe whatſoever. *Provided*, that the truſt hereby repoſed in the Delegates of this State ſhall not be executed unleſs three of them, at leaſt, are preſent in Congreſs.

Delegates empowered to convey.

Conditions.

Reſervations.

All the lands ceded to be a common fund for the members of the Fœderal alliance, and for no other uſe.

Three members at leaſt to execute the truſt.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 17th Day of *October*, in the Year of our Lord 1785.

CHAP. VIII.

An Act for securing to the Authors of Literary Works, an exclusive Property therein for a limited Time.

[Passed the 21st of November, 1785.]

I. BE *it enacted by the General Assembly*, That the Author of any book or pamphlet already printed, being a citizen of any one of the United States, who has not transferred to any other person or persons, the copy or copies of such book, or pamphlet, share, or shares thereof, his heirs and assigns, or the person or persons who have purchased or acquired such copy or copies, share or shares, in order to print or reprint the same, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the term of twenty-one years, to be computed from the first publication thereof; and that the Author of any book or pamphlet already composed and not printed or published, or that shall hereafter be composed, being a Citizen, as aforesaid, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the like term of twenty-one years, to be computed from the first publication thereof. And if any person or persons whatsoever, shall print, re-print, or cause to be printed or re-printed, within this Commonwealth, any such book or pamphlet; or shall import into this Commonwealth, from any foreign Kingdom or State, any printed or re-printed copies of such book or pamphlet, without the consent of the Author or Proprietor thereof, first obtained in writing, signed in presence of two credible witnesses at least; or who, knowing the same to be so printed, re-printed, or imported, without such consent first had and obtained, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy or copies of any such book or pamphlet; the person or persons offending herein, shall forfeit to the party injured, double the value of all the copies so printed, re-printed, or imported; or so published, sold, or exposed to sale; to be recovered at the suit of such party, in any Court of Record within this Commonwealth.

Exclusive right of printing their books vested in authors for a limited time.

Penalty on persons printing, importing, or publishing such books.

II. *PROVIDED nevertheless*, That no person shall be entitled to the benefit of this Act, until he shall have registered the title of such book or pamphlet with the Clerk of the Council, and procured a certificate of such registry from the said Clerk; which certificate the Clerk is hereby required to give, taking only three shillings for his trouble.

Authors to register titles of their books with the Clerk of the Council.

CHAP. IX.

An Act for the Appointment of Harbour-Masters, *and declaring their Duty.*

[Passed the 25th of November, 1785.]

I. WHEREAS it is represented that the appointment of Harbour-Masters would tend to the preservation of order and regularity in the several ports and harbours within this Commonwealth:

Preamble.

II. *BE it enacted*, That the County and Corporation Courts within this State, shall, and they are hereby authorised and empowered, to appoint so many persons as they may think necessary, to act as Harbour-Masters within their respective jurisdictions. And the

How to be appointed and qualified.

1785.

person or persons so to be appointed, shall, previous to the entering on the said office, take the following oath before their County or Corporation Court, "*I do swear, that* "*I am a Citizen of the Commonwealth of Virginia, and that I will well and truly perform the* "*duty of Harbour-Master to the best of my skill and judgment, without favor, affection, or par*-"*tiality. So help me* GOD."

Their powers.

III. *AND be it further enacted*, That the Harbour-Masters to be appointed by virtue of this Act, shall have full and ample power to cause all ships and other vessels that may come within his district, to moor in such places as he shall judge most conducive for the general safety, and shall moreover direct the Masters or Commanders of vessels to rig in their jib-booms, or any other spars which may tend to obstruct the navigation. Any Master or Commander refusing to observe and comply with the said directions, shall forfeit and pay the sum of fifteen pounds, to the use of the Commonwealth; and shall moreover be subject for any damages that may accrue in consequence of such refusal, to be recovered in any Court of Record within this Commonwealth.

Penalty on master of a vessel refusing to comply with their directions.

Their duties.

IV. *AND be it further enacted*, That the Harbour-Master shall cause every ship or other vessel that may come within his district, to be properly moored within twenty-four hours after their several arrivals. Any Harbour-Masters failing to give directions for the mooring of any vessels within the time prescribed by this Act, shall forfeit and pay fifteen pounds, for the use of the Commonwealth, to be recovered, by motion before the County or Corporation Court (as the case may be) on ten days previous notice, and shall moreover be liable to the action of the party injured for any damages sustained in consequence of such neglect. And the Harbour-Masters shall moreover attend to the unmooring of all ships and other vessels within their respective districts; and in case any vessel moored, shall by stress of weather or other accident, be drove from her mooring, the Harbour-Master shall attend to the re-mooring the same, and be entitled to half fees for such service.

And fees.

V. *AND be it further enacted*, That the Harbour-Masters shall demand, and be entitled to receive from all Masters or Commanders of square-rigged vessels, the sum of ten shillings, and for all schooners and sloops, the sum of six shillings, and no more: *Provided nevertheless*, That no Master or Commander of any river or bay craft, shall be subject to the payment of any fee by this Act imposed.

Commencement of this act.

VI. THIS Act to commence and be in force from and after the first day of January, one thousand seven hundred and eighty-six.

CHAP. X.

An Act to prevent Frauds and Perjuries.

[Passed the 30th of November, 1785.]

Certain contracts, agreements, and promises, not binding, unless made in writing.

I. BE *it enacted by the General Assembly*, That no action shall be brought whereby to charge any Executor or Administrator upon any special promise to answer any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements, or hereditaments, or the making any lease thereof for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorised.

Conveyances of lands or goods, and bonds, suits, judgments, & executions to defraud creditors, void as to them.

II. EVERY gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common, or profit out of the same, by writing or otherwise, and every bond, suit, judgment or execution, had or made, and contrived of malice, fraud, covin, collusion, or guile, to the intent or purpose to delay, hinder, or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, shall be from henceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, exe-

cutors, administrators, or assigns, and every of them, whose debts, suits, demands, estates interests, by such guileful and covinous devices and practices, as is aforesaid, shall or might be in any wise disturbed, hindered, delayed or defrauded) to be clearly and utterly void, any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding. And moreover, if a conveyance be of goods and chattels, and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this Act, unless the same be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the same deed include lands also, in such manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witnesses in the General Court, or Court of the County, wherein one of the parties lives, within eight months after the execution thereof, or unless possession shall really and *bona fide* remain with the donee; and in like manner where any loan of goods and chattels shall be pretended to have been made to any person with whom, or those claiming under him, possession shall have remained by the space of five years without demand made, and pursued by due process at law on the part of the pretended lender, or where any reservation or limitation shall be pretended to have been made of a use or property, by way of condition, reversion, remainder, or otherwise, in goods and chattels, the possession whereof shall have remained in another as aforesaid, the same shall be taken as to the creditors and purchasers of the persons aforesaid, so remaining in possession, to be fraudulent within this Act, and that the absolute property is with the possession, unless such loan, reservation, or limitation of use or property, were declared by will or by deed, in writing proved, and recorded as aforesaid.

Conveyances of goods, not on valuable consideration, to be deemed fraudulent unless by will or deed, and proved and recorded.

In what cases of loans of goods, the absolute right, shall be deemed to be in the possessor.

III. THIS Act shall not extend to any estate or interest in any lands, goods, or chattels, or any rents, common, or profit out of the same, which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured to any person or persons, bodies politic or corporate.

Lands or goods *bona fide* sold and conveyed, excepted out of this act.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of this act.

CHAP. XI.

An Act to prevent the Circulation of private Bank Notes.

[Passed the 2d of December, 1785.]

I. BE *it enacted by the General Assembly*, That it shall not be lawful for any person to offer in payment, a private bank bill or note for money, payable to bearer; and whosoever shall offend herein, shall not only forfeit to the informer ten times the value of the sum mentioned in such bill or note, but may be apprehended by warrant of a Justice, and, upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it shall be deemed a breach of the condition of the recognizance.

Penalty on persons circulating bills or notes payable to the bearer.

II. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of this act.

CHAP. XII.

An Act concerning Aliens.

[Passed the 3d of December, 1785.]

I. BE *it enacted by the General Assembly*, That in case that war arise betwixt the United States of *America* and any foreign State, the merchants and people of such State, their families, agents, and servants, found in this Commonwealth, at the beginning of the war, shall not be attached either in their body or goods because of such war, but shall be warned by Proclamation from the Governor, taking thereon the advice of the Council of

When they must leave the state;

1785.

State, that they ſhall depart the Commonwealth with their families, agents, and ſervants, aforeſaid, and their goods, freely within forty days after the Proclamation made and publiſhed. In the meantime they ſhall not be impeached, nor let of their paſſage, or of making their profit of the ſame merchandiſes, if they will ſell them. And in caſe that for default of wind or of ſhip, or for ſickneſs, or for other evident cauſe, they cannot depart the Commonwealth within ſo ſhort a time, then they ſhall have other forty days, or ſo much more as the neceſſity of their affairs may require, and the Governor and Council may think it ſafe to allow, and in the mean time may ſell their merchandiſe as afore is ſaid.

and how they ſhall be treated in caſe of war with the ſtate of which they are citizens.

II. BUT if before their departure credible intelligence ſhall be brought to the Governor, that the merchants or people of any of the United States be evil treated in the land making war againſt us, then they ſhall be attached without harm of body or goods, until the truth of the matter be certainly known unto the Governor and Council of State: And if the merchants and people of the United States be well treated there, theirs ſhall be likewiſe with us: And if otherwiſe, theirs ſhall be treated or demeaned within the Commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war againſt us.

Commencement of this act.

III. THIS Act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and eighty ſeven.

C H A P. XIII.

An Act providing that wrongful Alienations of Lands ſhall be void ſo far as they be wrongful.

[Paſſed the 5th of December, 1785.]

Alienations and warranties of land ſhall paſs only what the perſon might lawfully convey;

I. BE *it enacted by the General Aſſembly*, That all alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to paſs or aſſure a greater right or eſtate than ſuch perſon may lawfully paſs or aſſure, ſhall operate as alienations or warranties of ſo much of the right and eſtate in ſuch lands, tenements, or hereditaments, as ſuch perſon might lawfully convey; but ſhall not paſs or bar the reſidue of the ſaid right or eſtate purported to be conveyed or aſſured.

How far the heirs ſhall be barred, or bound to recompence the tenant where they have aſſets.

II. BUT if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage deſcend to the demandant of the ſide of the alienor, then he ſhall be barred for the value of the heritage that is to him deſcended. And if in time after any heritage deſcend to him by the ſaid alienor, then ſhall the tenant recover againſt him of the ſeizin warranted, by judicial writ, that ſhall iſſue out of the rolls of the Juſtices, before whom the plea was pleaded, to re-ſummon his warranty, as before hath been done in caſes where the warrantor cometh into the Court, ſaying, that nothing deſcended from him by whoſe deed he is vouched.

Commencement of this act.

III. THIS Act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven.

C H A P. XIV.

An Act directing what Priſoners ſhall be let to Bail.

[Paſſed the 5th of December, 1785.]

What priſoners ſhall be admitted to bail,

I. FOR aſcertaining in what caſes perſons apprehended on ſuſpicion of felony ſhall or ſhall not be admitted to bail: *Be it enacted by the General Aſſembly*, That thoſe ſhall be let to bail who are apprehended for any crime not puniſhable in life or limb: And if the crime be ſo puniſhable, but only a light ſuſpicion of guilt fall on the party, he ſhall in like manner be bailable: But if the crime be puniſhable in life or limb, or if it be man-

ſlaughter, and there be good cauſe to believe the party guilty thereof, he ſhall not be admitted to bail.

II. NO perſon ſhall be bailed after conviction of any felony. and who ſhall not.

III. IF any Juſtice let any go at large on bail who is not bailable, or refuſe to admit to bail any who have right to be ſo admitted, after they ſhall have offered ſufficient bail, or require exceſſive bail, he ſhall be amerced at the diſcretion of a Jury. Penalty on Juſtices for admitting priſoners to bail, or for refuſing it improperly.

IV. THIS Act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven. Commencement of this act.

CHAP. XV.

An Act declaring that none ſhall be condemned without Trial, and that Juſtice ſhall not be ſold or deferred.

[Paſſed the 5th of December, 1785.]

I. BE *it enacted by the General Aſſembly*, That no freeman ſhall be taken or impriſoned, or be diſſeized of his freehold, or liberties or free cuſtoms, or be outlawed or exiled, or any otherwiſe deſtroyed, nor ſhall the Commonwealth paſs upon him, nor condemn him, but by lawful judgment of his Peers, or by the laws of the land. Juſtice or right ſhall not be ſold, denied, or deferred, to any man. No freeman to be deprived of liberty, rights, or freehold, but by judgment of his peers, or by the laws. Juſtice not to be ſold, denied, or deferr'd.

II. THIS Act ſhall commence and be in force from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven. Commencement of this act.

CHAP. XVI.

An Act concerning Eſtrays.

[Paſſed the 12th of December, 1785.]

I. BE *it enacted by the General Aſſembly*, That it ſhall be lawful for any perſon by himſelf or his agent, to take up any Eſtray on his own land, and having taken it, he, or his agent, ſhall forthwith give information thereof to ſome Juſtice of the Peace for the ſaid County, who ſhall thereupon iſſue his warrant to three diſintereſted freeholders of the neighbourhood, commanding them, having been firſt duly ſworn, to view and appraiſe ſuch Eſtray, and certify the valuation under their hands, together with a particular deſcription of the kind, marks, brand, ſtature, colour, and age; which certificate ſhall by the Juſtice be tranſmitted to the Clerk of the County Court within twenty days, and by ſuch Clerk entered in a book to be kept for that purpoſe, for which he may demand and take ten pounds of tobacco, to be paid down by the taker up. Method of taking up and appraiſing eſtrays.

II. THE Clerk ſhall moreover cauſe a copy of every ſuch certificate to be publicly affixed at the door of his Court-houſe, on two ſeveral Court-days next after he receive the ſame, for which, and a certificate thereof, he ſhall receive the like fee as for entering the ſame in the book. of advertiſing them.

III. IF the valuation ſhall be under twenty ſhillings, and no owner ſhall appear until notice ſhall have been twice publiſhed, as aforeſaid, the property ſhall then be veſted in the owner of the land, on which ſuch Eſtray was taken; and if the valuation ſhall exceed twenty ſhillings, ſuch owner ſhall, within three months after the appraiſement, ſend to the Public Printer a copy of the certificate, to be advertiſed three times in the Virginia Gazette, with notice of the place where ſuch Eſtray is, for which the Printer may demand four ſhillings for each Eſtray; and if no owner appears to claim ſuch Eſtray within a year and a day after the publication, the property ſhall from thenceforth be veſted in the owner of the lands whereon it was taken. But the former owner, in either caſe, may at any time, within five years after- When the property ſhall be veſted in the perſon taking them up. Reſerving the right of the former proprietor to the value.

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wards, upon proving his property, demand and recover the valuation money, deducting therefrom the Clerk's and Printer's fees, and five shillings for every horse or head of neat cattle, and one shilling for every other beast.

Boats or other vessels adrift, taken up to be appraised and advertised in the same manner. Proviso in case of the death or loss of the estray.

IV. IF any person shall take up a boat or other vessel adrift, he shall in like manner make application to a Justice of one of the adjacent Counties, for his warrant to have the same valued and described by her kind, burthen and built, and shall proceed in all other respects, and have the same benefit as before directed in the case of Estrays. *Provided always*, That if after notice published as aforesaid, any Estray shall happen to die, or by any casualty get out of the possession of the person who took the same up, without his or her default, such taker up shall not be answerable for the same, or for the valuation thereof; nor shall any taker up be answerable for any boat or other vessel lost as aforesaid.

Commencement of this act.

V. THIS act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XVII.

An Act concerning Election of Members of General Assembly.

[Passed the 20th of December, 1785.]

When to be elected;

I. BE *it enacted by the General Assembly*, That the Delegates for the several Counties, and the City of *Williamsburg* and Borough of *Norfolk*, and the six Senators for one of the four classes of Districts, in the room of those who will annually be displaced, shall be chosen, in the manner hereafter directed, in the month of April in every year, on the Court days of each respective County or Corporation, and shall meet together, and with the remaining Senators, on the third Monday of October then next following, in General Assembly, at the place the last preceding General Assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague or small-pox, in which case they shall meet at such other place as the Governor, with the advice of the Council, shall appoint, and notify by Proclamation.

when and where to meet in General Assembly. See Acts of 1793, chap. 20.

Who qualified to vote as electors.

II. EVERY male Citizen (other than free Negroes or Mulattoes) of this Commonwealth, aged twenty-one years, or such as have refused to give assurance of fidelity to the Commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty-five acres of land, with a house, the superficial content of the foundation whereof is twelve feet square, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a City or Town established by Act of General Assembly, with a house thereon, of the like superficial content or quantity, having in such land an estate of freehold at the least, and, unless the title shall have come to him by descent, devise, marriage, or marriage-settlement, having been so possessed six months, and no other person shall be qualified to vote for Delegates to serve in General Assembly, for the County, City, or Borough respectively, in which the land lieth. If the fifty acres of land being one entire parcel, lie in several Counties, the holder shall vote in that County wherein the greater part of the land lieth only; and if the twenty-five acres of land, being one entire parcel, be in several Counties, the holder shall vote in that County wherein the house standeth only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same Candidate or Candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately, or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same County, in which case the others may vote, if holding solely, they might have voted.

Who may vote as electors in *Williamsburg* and *Norfolk*.

III. EVERY person having such a freehold in the City of *Williamsburg* or Borough of *Norfolk*, as will qualify him to vote for Delegates to represent the County, and also every freeman, except as before excepted, aged twenty-one years, being a Citizen of the Commonwealth, and not having refused to give assurance of fidelity, who shall be a housekeeper, and shall have resided for six months in the said City or Borough, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice

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to ſome trade within the ſaid City or Borough for the term of five years, and ſhall have obtained a certificate of ſuch ſervice from the Court of Huſtings, under the common ſeal of the City or Borough, and no other, ſhall be qualified to vote for a Delegate to repreſent the ſaid City or Borough, reſpectively, in General Aſſembly.

Who may be elected.

IV. EVERY perſon qualified as aforeſaid to vote for Delegates, ſhall be capable of being elected a Delegate for the County, City, or Borough, or Senator for the Diſtrict in which he reſides.

No perſon compellable to ſerve more than ſeven years.

V. NO perſon who ſhall have ſerved as a Member of the Legiſlature for ſeven years in the whole, ſhall be afterwards compellable to ſerve therein.

Penalty on electors failing to attend and vote. See chap. 39, Sec. 8.

VI. ANY Elector qualified according to this Act, failing to attend any annual election of Delegates or of a Senator, and, if a poll be taken, to give, or offer to give his vote, ſhall pay one fourth of his portion of all ſuch levies and taxes as ſhall be aſſeſſed and levied in his County the enſuing year: And for diſcovering ſuch defaulters, the Sheriff or other officer taking the poll, ſhall within ten days after the ſaid election, deliver to the Clerk of the County, or Corporation Court, as the caſe may be, a copy of the poll by him taken, to be kept in his office, who ſhall ſuffer any candidate or elector to take a copy thereof; and the ſaid Clerk is hereby directed to cauſe a copy of the ſame to be delivered to the next Grand Jury, to be ſworn for the County or Corporation, who ſhall be charged by the preſiding Magiſtrate, to make preſentment of all ſuch perſons qualified to vote, reſiding in the ſaid County or Corporation, who ſhall have failed to have given their votes at the ſaid election agreeable to law. And for the better information of the ſaid Jury, the Sheriff of the County is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a liſt of all the landholders reſident therein.

Privilege of electors.

VII. EVERY Elector, going to, abiding at, and returning from an election, ſhall be privileged from arreſts one day for every twenty miles he ſhall neceſſarily travel, excluſive of the day of election; and any proceſs againſt ſuch Elector, executed during ſuch privilege, ſhall be void.

Method of taking the poll.

VIII. UPON the election of a Senator, and alſo of a Delegate, or Delegates, when the election of ſuch Delegate, or Delegates, cannot be determined by view, the Sheriff, or in his abſence, the under Sheriff of the County, or the Mayor of the City or Borough, ſhall in preſence of the candidates, or their agents, cauſe the poll to be taken in the Court-houſe, or if that be in a Town infected with any contagious diſeaſe, or be in danger of an attack from a public enemy, at ſome other place according to theſe directions: He ſhall appoint ſuch, and ſo many writers as he ſhall think fit, who ſhall reſpectively take an oath, to be adminiſtered by him, or make ſolemn affirmation that they will take the poll faithfully and impartially: He ſhall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there ſhall be candidates, ſhall enter the name of each candidate in a diſtinct column at the head thereof, and under his name in the ſame column, the name of every elector, who ſhall vote for that candidate; and after the names of all the electors who will give their votes (Proclamation having been made three times at the door of the Court-houſe, or other place of holding ſuch election, by the officer requiring thoſe who had not been polled, to come in and give their votes) ſhall have been thus entered, he ſhall conclude the poll, and declare the candidates for whom the greateſt number of votes ſhall appear to have been given to be elected; or if the greateſt number of votes for ſeveral candidates ſhall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for ſeveral perſons to be a Senator be equal, and the votes of the returning officers be equal alſo, it ſhall be decided by a lot taken by the ſaid returning officers at their meeting, which ſhall be within twenty days after the laſt day of election, at ſuch place as ſhall be appointed by the returning officer of the firſt County in which ſuch election ſhall be, who is hereby commanded forthwith to give notice to the returning officers. No elector ſhall be admitted to poll a ſecond time, at one and the ſame election, although at the firſt time he ſhall have given but a ſingle vote. If the electors who appear, be ſo numerous that they cannot all be polled before ſun-ſetting; or if by rain or riſe of water-courſes, many of the electors may have been hindered from attending, the Sheriff, or under Sheriff, may by requeſt of any one, or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and ſo from day to day for four days;

Officers may declare which of the candidates he will elect, when the votes are equal.

See chap. 39, Sec. 6.

When and how the poll may be adjourned.

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(Sundays excluded) if the ſame cauſe continue, giving public notice thereof by Proclamation at the door of the Court-houſe, or other place of holding ſuch elections, and ſhall on the laſt day of the election conclude the poll according to the directions aforeſaid.

Mode of proceeding in conteſted elections. See chap. 39, Sec. 1. 2. 3. 4.

IX. ON complaint to either Houſe of Aſſembly of an undue election, or return of any Member to their Houſe, ſuch Houſe ſhall forthwith appoint ſome day for trying the ſame, as ſhortly as ſhall be conſiſtent with fair enquiry, but not within leſs than fourteen days after ſuch complaint lodged, whereof notice ſhall be given by the Speaker to the party againſt whom the complaint is, if he be abſent; which day of trial may be lengthened from time to time, on good cauſe ſhewn to the Houſe, and notice to the abſent party. On the day appointed for the trial, the Committee of Privileges and Elections ſhall proceed on the ſaid diſputed election, and report to the Houſe of which they are Members, their opinion thereon, before they proceed to any other buſineſs, and the ſaid Houſe ſhall, on receipt of the ſaid report, immediately proceed to determine thereon, and either confirm or diſagree to ſuch report, as to them ſhall ſeem juſt. If any perſon ſworn before the ſaid Committee, ſhall give, or withold, any evidence under ſuch circumſtances as would have conſtituted the ſame to be perjury, if done in preſence of a Court of Record, the ſame ſhall be deemed perjury. If upon any ſuch trial it ſhall appear that equal numbers of qualified Electors ſhall have voted for the petitioner and the ſitting Member, and the officer who conducted the election ſhall ſwear or ſolemnly affirm that if ſuch equality had appeared at the election, he would have declared the petitioner elected, ſuch petitioner ſhall be deemed duly elected; and his name inſtead of the name of the ſitting Member, which ſhall be eraſed, ſhall be inſerted in the certificate or return.

Electors if required, ſhall be ſworn.

X. NO Elector ſhall be polled before he ſhall have declared, if required to do ſo by any candidate, or his agent, in what right he offers to vote, and ſhall have taken an oath, which the officer conducting the election ſhall adminiſter, or make a ſolemn affirmation in this form: " *I do ſwear (or do ſolemnly affirm) that I do in my conſcience believe myſelf to be duly qualified to* " *vote for Delegates to ſerve in General Aſſembly for the County of* , *according* " *to the act of General Aſſembly, intituled,* ' An Act ;" of which oath or affirmation, a note ſhall be made in the poll-book, oppoſite, and referring to the name of the perſon ſwearing or affirming. The making ſuch oath or affirmation falſely, ſhall be perjury.

Names of electors refuſing to ſwear, to be entered in ſeparate liſts.

XI. THE names of Electors offering to be polled, but refuſing to make ſuch oath or affirmation, ſhall be entered on the poll-books in ſeparate liſts, with the names of the candidates for whom they voted, and ſhall be added to the poll, if, upon a ſcrutiny the votes be juſtified.

Manner of certifying election of Delegates.

XII. THE Sheriff or under Sheriff ſhall certify the election of Delegates in this form, or to this effect: " *Be it known to all to whom theſe preſents ſhall come, that I* , " *Sheriff (or* *Deputy of* , *Sheriff) of the County of* " *in my full County, held at the Court-houſe thereof (or at*) *on the* *day* " *of* , *in the year of our Lord,* , *by the Electors of my ſaid County,* " *qualified according to law, cauſed to be choſen two Delegates for my ſaid County, namely,* " *and* *to repreſent the ſame in General Aſſembly. Given under my hand* " *and ſeal, the day and year aforeſaid.*"

XIII. THE Mayor of a City or Borough entitled to particular repreſentation, ſhall certify the election of a Delegate in this form, or to this effect: " *Be it known to all to whom* " *theſe preſents ſhall come, that I* , *Mayor of the City (or Borough) of* , " *at the Court-houſe of (or at*) *in the ſaid City, (or Borough) on the* *day of* , " *in the year of our Lord,* , *by the electors of the ſaid City (or Borough)* " *qualified according to law, cauſed to be choſen a Delegate for the ſaid City, (or Borough)* " *namely,* *to repreſent the ſame in General Aſſembly. Given under my hand and* " *ſeal, the day and year aforeſaid.*"

Of Senators.

XIV. THE Sheriffs, or under Sheriffs, of the ſeveral Counties of a Diſtrict, ſhall certify the election of a Senator in this form, or to this effect: " *Be it known to all whom theſe* " *preſents ſhall come, that we* *Sheriff, (or* , *Deputy of* , " *Sheriff) of the County of* , , *Sheriff (or* , *Deputy of* " , *Sheriff) of the County of* , *and* , *Sheriff (or* ,

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" *Deputy of , Sheriff) of the County of , in our full Counties held at the*
" *Court-houses thereof (or at) respectively, on the day of , in the year of*
" *our Lord, , by the Electors of our said respective Counties, qualified according to*
" *law, caused to be chosen a Senator for the District, composed of the said Counties, namely,*
" *, to represent the same in General Assembly. Given under our hands and*
" *seals, the day and year aforesaid.*"

XV. THE officers directed to make such certificates of elections as aforesaid, shall cause them to be delivered, those of Delegates, to the Clerk of the House of Delegates, and those of Senators, to the Clerk of the Senate, one day at least before the succeeding Session of General Assembly.

Certificates of elections, to whom to be delivered.

XVI. FOR election of a Delegate or Senator, when a vacancy shall happen, a writ or writs shall be issued by the Speaker of that House whereof he was a Member, but if the vacancy be occasioned by acceptance of an office, the writ or writs shall not be issued, without the special order of the House; and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the Electors notice thereof as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the County, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a Delegate or Delegates, shall be in this form, or to this effect: Upon the writ shall be endorsed these, or the like words, "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper annexed to the writ shall be written, if the writ be for the election of a Delegate for a County, these or the like words, "*By virtue of this writ to me directed, in my full County held*
" *at the Court-house thereof (or at) on the day of , in the year of*
" *our Lord, , by the Electors of my said County, qualified according to law,*
" *I caused to be chosen a Delegate (or two Delegates) for my said County, namely,*
" *, to represent the same in General Assembly. Given under my hand and seal,*
" *the day and year aforesaid;*" and if the writ be for the election of a Delegate for a City or Borough, these, or the like words, "*By virtue of this writ to me directed, at the Court-house of*
" *the City of (or Borough of , or at , in the Borough of*
" *) on the day of , in the year of our Lord, ,*
" *by the Electors of the said City (or Borough) qualified according to law, I caused to be chosen a*
" *Delegate for the said City (or Borough) namely, , to represent the same in Ge-*
" *neral Assembly. Given under my hand and seal, the day and year aforesaid;*" and the return of the writs for electing a Senator shall be in this form, or to this effect: Upon each writ shall be endorsed these, or the like words, "*The execution of this writ appears in a schedule hereunto*
" *annexed;*" and on another paper connecting the several writs together, shall be written these, or the like words, "*By virtue of these writs to us directed, in our full Counties, held at the*
" *Court-houses thereof respectively (or at) on the day of , in the year*
" *of our Lord, , by the Electors of our said respective Counties, qualified accord-*
" *ing to law, we caused to be chosen a Senator for the District composed of our said Counties,*
" *namely, , to represent the same in General Assembly. Given under our hands*
" *and seals, the day and year aforesaid.*" And the officers conducting the elections, shall make their said returns to the General Assembly, if it be sitting, immediately, or if it be not sitting, one day at least before the time to which the writ shall be returnable.

Method of issuing, executing, and returning writs, for electing members to supply vacancies.

XVII. A SHERIFF, under Sheriff, or Mayor, refusing to take the poll when he shall be required by a candidate, or Elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a Member or Members to serve in the General Assembly, or neglecting to cause the certificate or return of such election to be made to such Clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the Clerk of the Court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refusing to suffer any Candidate or Elector, at his own expence, to take a copy of the poll-books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the Commonwealth.

Penalties on the officers for refusing to take the poll or other neglect of duty.

XVIII. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat,

Members bribing electors to be ex-

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pelled and disabled to be re-elected for three years.

drink, or other reward, in order to be elected, or for having been elected, for such, or any other County, City, or Borough, shall be expelled and disabled to be re-elected during the term of three years.

Privilege of the members.

XIX. THE privilege of Members of the General Assembly shall continue during every session, and one day before and after for every twenty miles they must necessarily travel to, and from home, and in the meantime process in which they are parties shall be suspended, without abatement or discontinuance; if any person taken in execution, be delivered by privilege of either House of General Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

When the Assembly may be prorogued, or either House adjourned by the Governor and Council. Penalties on Members departing without leave. Members attending, but unable thro' sickness to sit in the House, entitled to their wages. Penalty on absent Members when there is not a House for want of Members.

XX. IF a sufficient number of the Members of General Assembly, or of either House thereof, to adjourn from day to day, shall not meet at any time when they ought, the Governor by Proclamation, with advice of the Council, may prorogue the General Assembly, or adjourn the deficient House, from day to day, until a sufficient number shall convene, and their acts and proceedings afterwards shall be as valid as if there had been no such interruption. But a Delegate or Senator shall lose all the wages he would otherwise have been entitled to, if he shall depart from the General Assembly before it be adjourned, without licence from the Speaker and other Members of the House whereof he is a Member, first entered on the Journal; yet any Member of either House taken so sick during his attendance in General Assembly, or in his journey thither, as that he shall be unable to come to or sit in the House, shall receive wages for every day of the Session he shall be so disabled, in the same manner as if he had sat in the House. If on the day appointed for the meeting of any General Assembly, or at any time during the Session, a sufficient number of the Members thereof, to proceed to business, do not attend for that purpose, every absent Delegate or Senator, shall, besides losing his wages during absence, forfeit and pay to the use of this Commonwealth ten pounds; such forfeiture to be recovered by prosecution to be instituted in the General Court by order of such House, and on the trial of such prosecution, no excuse for non-attendance, other than those before-mentioned, shall be admitted by the Jury; and if it be alledged that the defendant did attend such House, on any of the days during which they could not do business for want of Members, the proof of such attendance shall rest on him.

General Assembly may adjourn to any other place than that where they are sitting.

XXI. THE General Assembly may during a Session, or at the end thereof, adjourn to any other place than that where they shall then be sitting.

When Acts of Assembly are to commence in force.

XXII. EVERY Act of the General Assembly hereafter to be made, shall commence and be in force from the passing thereof, unless in the Act itself another day for the commencement thereof be particularly mentioned, and in the former case the day of passing thereof shall be noted next after the title.

Commencement of this act.

XXIII. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XVIII.

An Act to approve, confirm, and ratify the Compact made by certain Commissioners appointed by the General Assembly of the State of Maryland, *and Commissioners appointed by this Commonwealth.*

[Passed the 3d of January, 1786.]

Preamble.

I. WHEREAS, at a meeting of the Commissioners appointed by the General Assembly of the State of *Maryland* and *Virginia*, to wit, *Daniel* of *St. Thomas Jenifer*, *Thomas Stone*, and *Samuel Chase*, Esquires, on the part of the State of *Maryland*, and *George Mason* and *Alexander Henderson*, Esquires, on the part of the State of *Virginia*, at *Mount-Vernon*, in *Virginia*, on the 28th day of *March*, in the year one thousand seven hundred and eighty-five, the following compact was mutually agreed to by the said Commissioners.

Articles of the compact.

First,---THE Commonwealth of *Virginia* disclaims all right to impose any toll, duty, or charge, prohibition or restraint, on any vessel whatever sailing through the Capes of *Chesa-*

peake Bay to the State of *Maryland*, or from the said State through the said Capes outward bound; and agrees that the waters of *Chesapeake* Bay, and the river *Pocomoke*, within the limits of *Virginia*, be forever considered as a common high-way, free for the use and navigation of any vessel belonging to the said State of *Maryland*, or any of its citizens, or carrying on any commerce to or from the said State, or with any of its citizens; and that every such vessel inward or outward bound, may freely enter any of the rivers within the Commonwealth of *Virginia* as a harbour, or for safety against an enemy, without the payment of port duties, or any other charge; and also, that the before-mentioned parts of *Chesapeake* Bay, and *Pocomoke* River, be free for the navigation of vessels from one part of the State of *Maryland* to another.

Second,---The State of *Maryland* agrees that any vessel belonging to the Commonwealth of *Virginia*, or any of its citizens, or carrying on commerce to or from the said Commonwealth, or with any of its citizens, may freely enter any of the rivers of the said State of *Maryland* as a harbour, or for safety against an enemy, without the payment of any port duty, or other charge.

Third,---Vessels of war, the property of either State, shall not be subject to the payment of any port duty, or other charge.

Fourth,---Vessels not exceeding forty feet keel, nor fifty tons burthen, the property of any citizen of *Virginia* or *Maryland*, or of citizens of both States, trading from one State to the other only, and having on board only the produce of the said States, may enter and trade in any part of either State, with a permit from the Naval-Officer of the district from which such vessel departs with her cargo, and shall be subject to no port charges.

Fifth,---All merchant vessels (except such as are described in the fourth article) navigating the River *Patowmack*, shall enter and clear at some Naval-Office on the said river, in one or both States, according to the laws of the State in which the entry shall be made. And where any vessel shall make an entry in both States, such vessel shall be subject to tonnage in each State only in proportion to the commodities carried to, or taken from, such State.

Sixth.---The River *Patowmack* shall be considered as a common high-way, for the purpose of navigation and commerce to the citizens of *Virginia*, and *Maryland*, and of the United States, and to all other persons in amity with the said States, trading to or from *Virginia* or *Maryland*.

Seventh,---The citizens of each State respectively shall have full property in the shores of *Patowmack* River adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, so as not to obstruct or injure the navigation of the river; but the right of fishing in the river shall be common to, and equally enjoyed by the citizens of both States: *Provided*, That such common right be not exercised by the citizens of the one State, to the hindrance or disturbance of the fisheries on the shores of the other State; and that the citizens of neither State shall have a right to fish with nets or seines on the shores of the other.

Eighth,---All laws and regulations which may be necessary for the preservation of fish, or for the performance of quarantine, in the River *Patowmack*, or for preserving and keeping open the channel and navigation thereof, or of the River *Pocomoke*, within the limits of *Virginia*, by preventing the throwing out ballast, or giving any other obstruction thereto, shall be made with the mutual consent and approbation of both States.

Ninth,---Light-houses, beacons, buoys, or other necessary signals, shall be erected, fixed, and maintained upon *Chesapeake* Bay, between the sea and the mouths of the Rivers *Patowmack* and *Pocomoke*, and upon the River *Patowmack*, at the expence of both States; If upon *Patowmack* River, at the joint and equal charge of both States; and if upon the before-mentioned part of *Chesapeake* Bay, *Virginia* shall defray five parts, and *Maryland* three parts of such expence; and if this proportion shall in future times be found unequal, the same shall be corrected. And for ascertaining the proper places, mode, and plans for erecting and fixing light-houses, buoys, beacons, and other signals, as aforesaid, both States shall, upon the application of either to the other, appoint an equal number of Commissioners, not less than three nor more than five from each State, to meet at such times and places as the said Commissioners, or a major part of them, shall judge fit, to fix upon

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the proper places, mode, and plans for erecting and fixing such light-houses, beacons, or other signals, and report the same, with an estimate of the expence, to the Legislatures of both States, for their approbation.

Tenth,---All piracies, crimes, or offences committed on that part of *Chesapeake* Bay which lies within the limits of *Virginia*, or that part of the said Bay where the line of division from the South point of *Patowmack* River (now called *Smith's* Point) to *Watkins's* Point, near the mouth of *Pocomoke* River, may be doubtful, and on that part of *Pocomoke* River within the limits of *Virginia*, or where the line of division between the two States upon the said river, is doubtful, by any persons not citizens of the Commonwealth of *Virginia*, against the citizens of *Maryland*, shall be tried in the Court of the State of *Maryland* which hath legal cognizance of such offence: And all piracies, crimes, and offences committed on the before-mentioned parts of *Chesapeake* Bay and *Pocomoke* River, by any persons not citizens of *Maryland*, against any citizen of *Virginia*, shall be tried in the Court of the Commonwealth of *Virginia* which hath legal cognizance of such offence: All piracies, crimes, and offences committed on the said parts of *Chesapeake* Bay and *Pocomoke* River, by persons not citizens of either State, against persons not citizens of either State, shall be tried in the Court of the Commonwealth of *Virginia* having legal cognizance of such offences: And all piracies, crimes, and offences committed on the said parts of *Chesapeake* Bay and *Pocomoke* River, by any citizen of the Commonwealth of *Virginia*, or of the State of *Maryland*, either against the other, shall be tried in the Court of that State of which the offender is a citizen. The jurisdiction of each State over the River *Patowmack*, shall be exercised in the same manner as is prescribed for the before-mentioned parts of *Chesapeake* Bay and *Pocomoke* River, in every respect, except in the case of piracies, crimes, and offences committed by persons not citizens of either State, upon persons not citizens of either State, in which case the offenders shall be tried by the Court of the State to which they shall first be brought. And if the inhabitants of either State shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said Bay or Rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any Court of Record, or Civil Magistrate of the State where the offence shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the State where the offence shall have been committed, and also in the State where the said offender may reside, and execution may be issued by the Court, or Magistrate, giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any Court, or Magistrate, of the State where such offender may reside, having jurisdiction within the State, or County where the offender may reside, in cases of a similar nature, such Court, or Magistrate, shall order execution to issue upon such authenticated judgment in the same manner, and to the same extent, as if the judgment had been given by the Court, or Magistrate, to which such transcript shall be exhibited.

Eleventh,---Any vessel entering into any port on the River *Patowmack*, may be libelled, or attached for debt, by process from the State in which such vessel entered. And if the commercial regulations of either State shall be violated by any person carrying on commerce in *Patowmack* or *Pocomoke* Rivers, the vessel owned or commanded by the person so offending, and the property on board, may be seized, by process from the State whose laws are offended, in order for trial. And if any person shall fly from justice, in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of *Chesapeake* Bay, or the rivers aforesaid, by process of the State from which such person shall fly, or property be removed; and process from the State of *Virginia* may be served on any part of the said rivers, upon any person, or property of any person not a citizen of *Maryland*, indebted to any citizen of *Virginia*, or charged with injury having been by him committed; and process from the State of *Maryland* may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of *Virginia*, indebted to a citizen of *Maryland*, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either State shall attend as witnesses in the other, upon a summons from any Court, or Magistrate, having jurisdiction, being served by a proper officer of the County where such citizen shall reside.

Twelfth,---THE citizens of either State having lands in the other, ſhall have full liberty to tranſport to their own State, the produce of ſuch lands, or to remove their effects, free from any duty, tax, or charge whatſoever, for the liberty to remove ſuch produce or effects.

Thirteenth,---THESE Articles ſhall be laid before the Legiſlatures of *Virginia* and *Maryland*, and their approbation being obtained, ſhall be confirmed and ratified by a law of each State, never to be repealed, or altered, by either, without the conſent of the other.

II. AND WHEREAS this General Aſſembly are of opinion that the ſaid compact is made on juſt and mutual principles for the true intereſt of both governments, and the ſame having been confirmed by the General Aſſembly of the State of *Maryland*: *Be it therefore enacted*, That the ſaid compact is hereby approved, confirmed, and ratified by the General Aſſembly of *Virginia*, and that every article, clauſe, matter and thing therein contained, ſhall be obligatory on this State and the citizens thereof, and ſhall be forever faithfully and inviolably obſerved and kept by this government, and all its citizens, according to the true intent and meaning of the ſaid Compact; and the faith and honour of this State is hereby ſolemnly pledged and engaged to the General Aſſembly of the State of *Maryland*, and the government and citizens thereof, that this law ſhall never be repealed, or altered, by the Legiſlature of this Commonwealth, without the conſent of the State of *Maryland*. Ratification thereof.

C H A P. XIX.

An Act concerning Public Roads.

[Paſſed the 5th of January, 1786.]

I. BE *it enacted by the General Aſſembly*, That where any perſon or perſons ſhall make application to any County Court, to have a new road opened, or a former one altered, within their County, for the convenience of travelling to their County Court-houſe, to any public warehouſe, landing, ferry, mill, lead or iron works, or to the Seat of Government, they ſhall appoint three or more fit and able perſons, to be ſworn before a Juſtice of the Peace, to view the ground along which ſuch road is propoſed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will reſult, as well to individuals as to the public, if ſuch way ſhall be opened; and where the application is to alter a former road, they ſhall alſo view the former road, and report in like manner, the comparative conveniences and inconveniences thereof. County Courts authoriſed to open new roads, or alter former ones.

II. UPON the return of the ſaid Viewers, if the Court ſhall be of opinion that the road applied for will be convenient, they ſhall order ſummonſes to be iſſued to the proprietors and tenants of the lands, through which the ſame is propoſed to be conducted, if they be found within the County, and if not, then to their agents therein, if any they have, to ſhew cauſe why ſuch road ſhould not be opened; upon the return of which ſummons, if any proprietor or tenant ſo deſire, the ſaid Court ſhall order their Clerk to iſſue a writ in the nature of a writ *ad quod damnum*, to be directed to the Sheriff, commanding him to ſummon and empannel twelve able and diſcreet freeholders of the vicinage, no ways related to either party, to meet at ſome certain place on the ground through which the ſaid road is propoſed to be conducted, and on a certain day to be named by the Court, and inſerted in the ſaid writ, of which notice ſhall be given by the Sheriff to the ſaid proprietors or tenants, or their agents, as before directed, if they were not preſent in Court at the time of the order made; which freeholders, taking nothing (on pain of being diſcharged from the Inqueſt, and immediately impriſoned by the Sheriff) either of meat or drink, from any perſon whatever, from the time they ſhall come to the ſaid place until their Inqueſt ſealed, ſhall be charged by the ſaid Sheriff impartially, and to the beſt of their ſkill and judgment, to view the lands through which the ſaid road is propoſed to be conducted, and ſay to what damage it will be of to the ſeveral and reſpective proprietors and tenants, who deſired ſuch writ, taking into eſtimation as well the uſe of the lands to be laid open for ſuch road, as the additional fencing, which will thereby be rendered neceſſary; and if the ſaid Inqueſt cannot be compleated in one day, the Sheriff ſhall adjourn the ſaid Jurors from day to day, until the ſame be compleated: Which Inqueſt, ſealed by the ſaid Jurors, together with the writ,

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ſhall be returned to the Court, who thereupon, as well as upon other evidence, ſhall proceed to conſider whether, all circumſtances weighed, it be better that the ſaid road ſhall be opened, and if they be of opinion that the ſame ſhall be opened, they ſhall levy on their County, at their next levy to be laid, the damages ſo found, and the coſts of the inqueſt, and direct them to be paid to thoſe reſpectively entitled thereto. But if they ſhall be of opinion that the ſaid road ought not to be opened, the coſts of ſuch inqueſt ſhall be adjudged againſt the party applying for the ſaid road. But it ſhall not be lawful for any Court to order a road to be opened through any lot of land in any town, without the conſent of the owner and tenant thereof.

To divide the public roads into precincts, and appoint a ſurveyor to each.

III. THE ſeveral Courts ſhall alſo divide all the public roads into precincts, and as often as it ſhall be neceſſary, appoint a Surveyor over every precinct, whoſe duty it ſhall be to ſuperintend the road in his precinct, and ſee that the ſame be cleared and kept in good repair; which Surveyor ſhall continue in office until another ſhall be appointed by the ſaid Court in his ſtead.

Who are to work on the roads.

IV. ALL male labouring perſons, of the age of ſixteen years or more, except ſuch as are maſters of two or more male labouring ſlaves, of the age of ſixteen years or more, ſhall be appointed by the Court to work on ſome public road: For every perſon ſo appointed, who, when required by the Surveyor placed over him, ſhall, without legal cauſe or diſability, fail to attend, with proper tools for clearing the road, or ſhall refuſe to work when there, or to find ſome other perſon equally able, to work in his room, the ſum of ſeven ſhillings and ſixpence for every day's offence, ſhall be paid, by himſelf, if he be a freeman of full age, if an infant, then by his parent, guardian, or maſter, and if a ſlave or ſervant, then by his overſeer, if he be under one, or otherwiſe, by his maſter.

Surveyors how to be notified of their appointments.

V. THE Clerk of every County Court ſhall, within ten days after the appointment of any Surveyor of a road, deliver a copy of the order to the Sheriff of the County, under the penalty of fifteen ſhillings; and the Sheriff, within fifteen days after the receipt of ſuch order, ſhall deliver the ſame to the Surveyor, under the penalty of fifteen ſhillings. And each Clerk ſhall moreover, once in every year, fix up in the Court-houſe, a liſt of the names and precincts of all the Surveyors of roads in his County, under the penalty of fifty ſhillings for every neglect.

Clerks annually to fix up liſts of their names at their Court-houſes.

Duty of the Surveyors.

VI. EVERY Surveyor of a Road ſhall cauſe the ſame to be conſtantly kept well cleared and ſmoothed, and thirty feet wide at the leaſt; and at the fork or croſſing of every public road, ſhall cauſe to be erected, and kept in repair from time to time, a ſtone, or otherwiſe an index on a poſt or tree, with plain inſcriptions thereon, in large letters, directing to the moſt noted place to which each of the ſaid roads ſhall lead, and may take ſtone or wood for that purpoſe from any adjoining land; and for the expence of ſetting up and inſcribing ſuch ſtones, poſts, or indexes, and keeping them in repair, the Surveyor ſhall be reimburſed by the County Court in their next ſucceeding levy; and where bridges and cauſeys are neceſſary, the Surveyor ſhall cauſe them to be made, twelve feet broad at the leaſt, convenient and ſafe, and ſhall keep the ſame in repair, and for that purpoſe may cut and take from the lands of any perſon adjoining, ſuch, and ſo much timber, earth, or ſtone, as may be neceſſary, the ſame being firſt viewed and valued by two honeſt houſe-keepers appointed and ſworn for that purpoſe by a Juſtice of the Peace, unleſs the owner ſhall freely give ſuch timber, ſtone, or earth, for that uſe; but where a road leads through a city or town, the Surveyor ſhall not take any timber, ſtone, or earth, from any lot within the town, without the permiſſion of the owner, but ſhall take the ſame from the lands nigh or adjacent to the ſaid town, where it will do the leaſt injury to the proprietor; and where the aſſiſtance of wheel-carriages is neceſſary for making or repairing any cauſeys, any Juſtice of Peace may iſſue his warrant, under his hand and ſeal, for empowering the Surveyor to impreſs ſuch neceſſary carriages, draught horſes, or oxen, with their gear and driver, belonging to any perſon who, or their ſervants or ſlaves, are appointed to work on the road, and appointing two honeſt houſe-keepers, who, being ſworn, ſhall value, by the day, the uſe of ſuch carriages, draught horſes, oxen, and driver, which valuation, with a certificate from the Surveyor how many days the ſaid things were employed in the work, ſhall entitle the owner to an allowance for the ſame in the next County levy. And in the like manner ſhall the owner of timber, ſtone, or earth, taken for bridges or cauſeys, be entitled to the valuation thereof in the next County levy, upon a certificate from the two houſe-keepers who value the ſame. Every Surveyor of a road, who fails to do his duty as aforeſaid, ſhall forfeit fifteen ſhillings for every offence.

VII. WHERE a bridge or causey shall be necessary, and the Surveyor, with his assistants, cannot make or maintain the same, the Court of the County are empowered and required to contract for the building and repairing such bridge or causey, and to levy the charge thereof in their County levy. And where such bridge or causey shall be necessary from one County to another, the Court of each County shall join in the agreement for building and repairing the same, and the charge shall be defrayed by both Counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the Undertaker, payable to the Governor and his successors, for the use of the County or Counties, as the case shall be, with condition for performing the same, and may be prosecuted at the costs, and for the benefit of the County or Counties, or any person sustaining a loss by the breach thereof, as often as it shall happen, until the whole penalty of the bond shall be paid. And all such contracts made by County Courts, or others appointed by them, shall be available and binding upon the Justices and their successors, so as to entitle the Undertaker to his stipulated reward in the County levy, or to a recovery thereof, with costs, by action of debt, against the Justices refusing to levy the same.

Penalty on them for neglect.

How bridges and causeys are to be built and repaired, when within a County.

VIII. WHEN the Justices of one County shall judge a bridge or causey over any place between them and another County to be necessary, they shall notify the same to the Justices of such other County, and require them to appoint three persons to meet at the said place on a certain day to be named by the Court requiring the same, to confer with three others, to be appointed by the said requiring Court, and agree on the manner and condition of executing the same; which six persons, or so many of them as meet, being not fewer than three, shall have power to agree on the manner and conditions of doing the said work, and to see that the same be done: And if the Court so required shall fail to appoint persons to act on their behalf, or to do what on their part should be done towards executing and paying for the said work, the Justices of the Court which made the requisition, shall apply to the General Court for a writ of *mandamus*, to be directed to the Justices of the other Court, commanding them to do, what on their part they ought to have done, and have failed to do, or to signify to them cause to the contrary thereof; upon the return of which writ, the General Court, if they shall be of opinion that the work is unnecessary, or that other sufficient cause is returned, shall quash the writ; or if they think otherwise, shall cause such further proceedings to be had as are usual in other cases of *mandamus* issuing from the said Court: And the like method of proceeding by way of *mandamus* shall be used, where the Justices of one County shall think it necessary to open a road to their County line, for the convenience of passing to some public place in another, and the Justices of such other shall refuse to continue the road through their County.

When over any place between two Counties.

IX. IF any person shall fell a tree into a public road, or into any stream of water, whereon there shall be any public bridge, and shall not remove the same within forty-eight hours, or shall kill a tree within the distance of fifty feet, from the road, or shall cut, pull up, destroy, or deface, any stone, or post, erected for the direction of travellers, or the indexes or inscriptions thereon, it shall be deemed a nuisance. Every free man, of full age, so offending, or the parent, master, or owner, of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay ten pounds for every offence. And where any fence shall be made across a public road, the owner or tenant of the land shall pay ten shillings for every twenty-four hours the same shall be continued.

Penalty on persons obstructing or injuring roads or bridges.

X. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top, through the whole length thereof, and shall keep and maintain a bridge of like breadth, with strong rails on each side thereof, over the pier-head, flood-gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hours failure; but where a mill-dam shall be carried away or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth, until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Owners of dams over which public roads pass, to keep them of a certain width.

XI. ALL the penalties in this Act, not otherwise directed, shall be one moiety to the informer, and the other to the use of the County, recoverable with costs, on warrant, petition, or action, as the case may be. Any Justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant

Penalties how to be recovered and appropriated.

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against the Surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such offenders may be presented by the Grand Juries; in all which cases of conviction, on view of a Justice, or presentment, or on private informations to Justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the County, towards lessening the levy thereof, and shall be annually collected and accounted for by the Sheriff, in the same manner as County levies; and to enable the Sheriff to make such collection, every Justice, immediately on conviction of any offender, where the penalty is to be to the County, shall certify the same to the Clerk of his County Court, who shall yearly, before the first day of March, deliver to the Sheriff a list of all the offenders so certified, and of all others convicted in Court, within one year preceding, of any offence against this Act.

To be prosecuted for within six months.

XII. *PROVIDED*, That prosecutions for any offence herein mentioned, shall be commenced within six months after the offence committed, and not after.

Commencement of this act.

XIII. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XX.

An Act for establishing Religious Freedom.

[Passed the 16th of December, 1785.]

Preamble.

I. WHEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of Legislators and Rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavouring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any Citizen as unworthy the public confidence, by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess, or renounce this or that religious opinion, is depriving him injuriously, of those privileges and advantages, to which, in common with his fellow-citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil Magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human in-

terposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them:

II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities. No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right. Declaration that the rights by this Act asserted, are of the natural rights of mankind.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 16th Day of *October*, in the Year of our Lord, 1786.

C H A P. XXI.

An Act forbidding and punishing Affrays.

[Passed the 27th of November, 1786.]

BE *it enacted by the General Assembly*, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month. Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country.

C H A P. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786.]

BE *it declared and enacted by the General Assembly*, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury. Who shall be deemed conspirators.

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CHAP. XXIII.

An Act prescribing the Punishment of those who sell unwholesome Meat or Drink.

[Passed the 27th of November, 1786.]

Punishment of those who sell unwholesome meat or drink.

BE *it enacted by the General Assembly*, That a Butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or a Baker, Brewer, Distiller, or other person, who selleth unwholesome bread or drink, shall, on conviction by the verdict of a Jury, the first time be amerced; the second time he shall suffer judgment of the pillory; and the third time he shall be imprisoned and make fine; and every time after he shall be adjudged to hard labour six months in the public works.

CHAP. XXIV.

An Act concerning Partitions and Joint Rights and Obligations.

[Passed the 28th of November, 1786.]

Joint tenants, and tenants in common, may be compelled to make partition.

I. BE *it enacted by the General Assembly*, That all joint tenants, or tenants in common, who now are, or hereafter shall be, of any estates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter shall hold, jointly, or in common, for term of life or years, with others who have, or shall have estates of inheritance, or freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them, of such lands, tenements, and hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writs *de partitione facienda*, the forms whereof shall be devised in the General Court, and adapted to the cases aforesaid: But no such partitions between joint tenants, or tenants in common, who hold or shall hold estates for term of life or years, with others holding equal or greater estates, shall be prejudicial to any entitled to the reversions or remainders, after the death of the tenants for life, or after the expiration of the years.

The part of a joint-tenant dying first, not to accrue to the survivor.

II. IF partition be not made between joint tenants, whether they be such as might have been compelled to make partition, or not, or of whatever kind the estates or thing holden or possessed be, the parts of those who die first, shall not accrue to the survivors, but shall descend, or pass by devise, and shall be subject to debts, charges, curtesy, or dower, or transmissible to executors or administrators, and be considered to every other intent and purpose, in the same manner as if such deceased joint tenants had been tenants in common.

Representatives of one jointly bound, chargeable as in joint and several obligations.

III. THE Representatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the lifetime of the latter, may be charged by virtue of such obligation, in the same manner as such Representatives might have been charged if the obligors had been bound severally, as well as jointly.

Allotment of parcels in partitions.

IV. PARTITION may be demanded by one and the same writ, of all the several parcels of land or other real estate to which the parties have title, and execution thereupon done by the Sheriff and Jury, as heretofore, or by special Commissioners to be appointed by the Court, with assent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as shall be most for the interest of the parties in general.

No plea in abatement to be received in suits for partitions,

V. NO plea in abatement shall be received in any suit for partition, nor shall it abate by the death of any tenant.

Mode of proceeding in

VI. AFTER a writ of partition returned, affidavit being made by some credible person, that due notice of the writ had been given to the tenant or tenants to the action, and that a

writs of partition.

copy thereof had been left with him, her, or them, if he, she, or they could be found, or if not, that such notice had been given to, and a copy left with the wife, son, or daughter, being of the age of twenty-one years, or upwards, and at the usual place of abode of such as could not be found, or the person in actual possession, not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants shall not cause an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the Court may proceed to examine his, or her title, and the quantity demanded, and shall give judgment by default, for so much as he or she shall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the persons mentioned before, judgment final shall thereupon be given, which shall be as binding as if it had been given after an appearance and upon a trial, unless any tenant within one year after the first judgment, or being an infant, a married woman, of unsound mind, or out of *Virginia*, within one year after attainment of full age, death of the husband, recovery of understanding, or return to the Country, respectively, by motion to the Court, either admitting the demandant's right and purpart, shall shew inequality in the partition, in which case the Court may award a new partition to be made, and that in presence of all the parties, if they choose to attend it, and the second partition shall be as binding as if the tenant had appeared and pleaded in the first instance, or else shall shew sufficient matter in bar of the partition, or that the demandant hath not title to so much as he or she hath recovered, in which case the Court may suspend or set aside the judgment, and admit the tenant to appear and plead, and the cause shall proceed as if no judgment had been given; and if upon the trial thereof, the Court shall give the same judgment as the first, it shall stand confirmed, and the person or persons, in whose behalf the motion was made, shall be awarded to pay costs.

When and how under Sheriffs may execute judgments in partitions.

VII. THE Under-Sheriff, when the High-Sheriff cannot conveniently attend, may in presence of two Justices of the Peace, proceed to the execution of a judgment in partition, by inquisition in due form of law, and the High-Sheriff shall make the same return as if he had acted in person.

Tenants to hold of landlords, to whom they may be allotted.

VIII. THEY who were tenants of the messuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, shall hold the same of the landlords, to whom they shall be allotted by the partition, inseveralty, under the same conditions, rents, covenants, and reservations, and the landlords shall warrant the several parts unto the tenants, as they were bound to do by leases or grants, respectively: And any demandant who was tenant, in actual possession, to the tenant to the action, for his purpart of the messuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, shall hold it for the same term, and under the same conditions and covenants when it shall be allotted in severalty.

C H A P. XXV.

An Act providing that Actions popular prosecuted by Collusion, shall be no Bar to those which be pursued with good Faith.

[Passed the 28th of November, 1786.]

Plaintiff to a plea of recovery, may reply that it was had by covin.

I. BE *it enacted by the General Assembly*, That if any person hereafter sue with good faith any action popular, and any Defendant in the same action, plead any manner of recovery by action popular, in bar of the said action, or that he before that time barred any Plaintiff in any such action popular, then the Plaintiff in the action taken with good faith, may aver that the said recovery, in the said action popular, was had by covin, or else may aver that the said Plaintiff was barred in the said action popular by covin: Then if after, the said collusion or covin so averred be lawfully found, the Plaintiff in that action sued with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like wise and effect as though no such afore had been had. *Provided always*, That no Plaintiff be in any wise received to aver any covin, in any action popular, where the point of the same action, or else the covin or collusion shall have been once tried, or lawfully found with the Plaintiff, or against him by trial of twelve men, and not otherwise.

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Penalty for compounding or discontinuing actions for certain penalties.

II. IF the Prosecutor of an action or information, for the recovery of any penalty not wholly appropriated to the use of such Proprietor,+ shall compound with the offender, or direct such suit or information to be discontinued, unless it be by leave of the Court wherein the said suit or information shall be depending, such Prosecutor shall be liable for so much of the penalty to the Commonwealth, or any other, as they would have been entitled to, if the Defendant had been convicted.

+ prosecutor

CHAP. XXVI.

An Act declaring when the Death of Persons absenting themselves shall be presumed.

[Passed the 1st of December, 1786.]

BE *it enacted by the General Assembly*, That any person absenting himself beyond sea, or elsewhere, for seven years successively, shall be presumed to be dead, in any case wherein his death shall come in question, unless proof be made that he was alive within that time. But an estate recovered in any such case, if in a subsequent action or suit, the person presumed to be dead, shall be proved to be living, shall be restored to him who shall have been evicted; and he may moreover demand and recover the rents and profits of the estate, during such time as he shall have been deprived thereof, with lawful interest.

CHAP. XXVII.

An Act for reforming the Method of proceeding in Writs of Right.

[Passed the 2d of December, 1786.]

I. BE *it enacted by the General Assembly*, That for trial of disputed titles to lands in a more simple mode than that which hath most commonly been used of late, the claimant or demandant of an estate in fee simple may sue forth against the possessor or tenant a writ of *præcipe quod reddat*; which issuing from the General Court shall be in this form, or to this effect,

Form of the writ.

"THE *Commonwealth of Virginia, to the Sheriff of* E. *greeting*: *Command* C. D. *that he justly and without delay, render unto* A. B. *tenement containing of land, with the appurtenances in the County of* E. *which he claimeth to be his right, and whereof he complaineth that the aforesaid* C. D. *doth withhold the possession. And, unless, he shall do so then summon the said* C. D. *that he appear before the Justices of our General Court, at on the day of the next Court, to shew wherefore he hath not done it. And have you then there this writ. Witness Chief Justice of our said Court, at the day of in the year* ."

And issuing from the Court of a County, City, or Borough, in the like form, with necessary alterations; and shall be directed to the Sheriff of that County, or the proper officer of that City or Borough, wherein the Tenant resideth, or that wherein was his last place of abode. Upon which writ the Count shall be in this form, or to this effect;

Count.

E. *to wit*: A. B. *by* F. G. *his Attorney, demands against* C. D. *tenement, containing of land, with the appurtenances, in the County of* E. *and bounded by* . *And whereupon the said* A. B. *saith that he hath right to have the tenement aforesaid, with the appurtenances, and offereth proof that such is his right.*

If several tenements be demanded in the same Count, the contents, situations, and boundaries of each shall be inserted therein. To which Count the Tenant may plead in this form, or to this effect;

Plea.

AND *the aforesaid* C. D. *by* H. I. *his Attorney, cometh and defendeth the right of the said* A. B. *when and where it behooveth him, and all that concerneth it, and whatsoever he ought*

to defend, and chiefly the tenement aforesaid, with the appurtenances as of right, namely tenement containing of land in the County of E. *and bounded by and putteth himself upon the assize, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforesaid with the appurtenances, as he now holdeth it (or them) or the said* A. B. *to have it as he now demandeth it (or them.")*

And to such plea the replication shall be in this form, or to this effect;

AND the aforesaid A. B. *in like manner putteth himself upon the assize, and prayeth recognition to be made whether he hath greater right to hold the tenement aforesaid as he demandeth, or the said* C. D. *as he holdeth it (or them.")* Replication.

Whereupon twelve good and lawful men, qualified as Jurors are required to be, shall be elected, tried, and charged, as the manner is, to make recognition of the assize; which charge shall be in this form, or to this effect: Jury.

YOU shall say the truth, whether C. D. *hath more right to hold the tenement, which* A. B. *demandeth against him, by his Writ of Right, or* A. B. *to have it (or them) as he demandeth."* Charge to the jury.

And at the trial, any matter may be given in evidence which might have been specially pleaded. And upon the verdict, or in the case of a demurrer, the like judgment shall be given, and upon such judgment, the like execution awarded, as in case of a writ of right; and the party, for whom judgment shall be given, shall recover his costs of suit; and the Demandant, if he recover his seisin, may also recover damages to be assessed by the recognitors of assize, for the Tenants withholding possession of the tenement demanded. What might have been specially pleaded may be given in evidence. Judgment, execution, costs and damages.

II. WHERE the *præcipe quod reddat* shall issue from the General Court, if return thereof be made that the Tenant is not found in the bailiwick of the Officer to whom it was directed, the Demandant may sue forth a writ of *exigi facias* in this form, or to this effect; Mode of proceeding if return be made that the tenant is not found.

THE Commonwealth of Virginia, to the Sheriff of E. *greeting: We command you that you cause* C. D. *to be required, from County Court to County Court, until five Courts be passed, if he doth not appear, and if he doth appear, then summon him that he be before the Justices of our General Court, at on the day of the next Court, to shew wherefore he hath not rendered unto* A. B. *tenement containing of land, with the appurtenances, in the County of* E. *And have you then there this writ. Witness Chief Justice of our said Court, at , the day of , in the year ."*

And when the residence or last place of abode of the Tenant shall be out of the County, in which the land demanded lieth, a like writ of *exigi facias* shall also be directed to the Sheriff of the latter County, and in either case a copy of such writ shall within four weeks after the teste thereof, be printed in the Virginia Gazette; and the said writ or writs of *exigi facias* being returned in due form, and being printed as aforesaid, if the Tenant shall not appear at the Court to which the same is or are returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant.

III. WHERE the *præcipe quod reddat* shall issue from the Court of a County, City, or Borough, if return thereof be made that the Tenant is not found in the bailiwick of the officer to whom it was directed, the Demandant may sue forth a new *præcipe* every Court, for five Courts following, successively, if the Tenant be not by one or other of them before summoned; and when the residence or last place of abode of the Tenant shall be out of the County, City, or Borough, in which the land demanded lieth, a *testatum præcipe* shall also be directed to the Sheriff or proper Officer of the latter County, City, or Borough; and in either case a copy of the first of the said five *præcipes*, shall within four weeks after the teste thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, shall, within fourteen days after the teste of each, be set up at the door of his Courthouse by the Officer to whom it shall be directed, and who by an endorsement on such writ, shall be required by the Clerk to do so; and return of the said five writs being made that the Tenant is not found in the bailiwick or bailiwicks of the Officer or Officers, to whom they were directed, and that they had been set up as is before directed, and the first of them being printed as aforesaid, if the Tenant shall not appear at the Court to which some one of the said writs was returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant; but if the Tenant, against whom, without having appeared, or Judgments against tenants in certain cases,

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no bar to actions brought by them.

without having been summoned, any such judgment shall be rendered, shall be out of *Virginia*, at the time of the suit brought, the judgment shall be no bar to an action commenced by him, or any claiming under him, to be restored to the land recovered, within a year and a day after he or they shall come into the Country, or remaining out of it, within seven years after the judgment; in which action, or in a separate one, damages may also be recovered.

Judgment by default.

IV. IF the Tenant whether summoned or not shall appear, and afterwards make default, judgment shall be entered against him; and if having been summoned he shall not appear, the Court shall make an order, that, unless he appear at the then next Court, *(a) or see* judgment shall be entered against him, which shall be entered accordingly, if a copy of that order being delivered to him, or left at the place of his usual abode, fifteen days, or more, before such next Court, and affidavit thereof being made, he shall not then appear.

Reservation of the rights of infants, *femes covert*, and lunatics.

V. IF the Demandant or Tenant, against whom any such judgment shall be rendered, at the time of the suit brought, shall be an infant, a married woman, or a person of unsound mind, the judgment shall be no bar to another action, commenced within five years after attainment of full age, discoverture, or recovery of understanding, or within the same time after the death of such privileged person.

CHAP. XXVIII.

An Act for the Suppression and Punishment of Riots, Routs, and unlawful Assemblies.

[Passed the 4th of December, 1786.]

Duty of the Justices in suppressing Riots, Routs, &c. and in punishing the offenders;

I. BE *it enacted by the General Assembly*, That if any Riot, Assembly, or Rout of People, against the law, be made in any part of the Commonwealth, the Justices of Peace, three, or two of them at the least, and the Sheriff, or Under-Sheriff of the County, or Serjeant of a Corporation, as the case may be, where such Riot, Assembly, or Rout shall be made, shall come with the power of the County, (if need be) to arrest them, and shall arrest them; and the same Justices and Sheriff, Under-Sheriff, or Serjeant, shall have power to record that which they shall find so done in their presence against the Law, by which record such trespassers and offenders shall be convict, and shall be taken and put in the Jail of the same County or Corporation, there to abide for so long time as shall be limited by a Jury, to be sworn by the Judges, for that purpose, and further until they shall have paid such amercement as the same Jury shall assess.

II. AND if it happen that such trespassers and offenders be departed before the coming of the said Justices and Sheriff, Under-Sheriff, or Serjeant, the same Justices, three, or two of them, shall diligently enquire within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to Law; and for this purpose the Sheriff, or Serjeant, having a precept directed to him, shall return twenty-four fit persons, twelve of whom having been sworn, shall enquire of the said riot, rout, or unlawful assembly, and award against those whom they shall find guilty thereof, due pains, by amercement and imprisonment, as is before directed; and if so many of them should not appear, those who make default, shall be fined by the same Justices, five pounds each; and if the default be in the Sheriff, Under-Sheriff, or Serjeant, he shall forfeit to the Commonwealth, twenty pounds.

How they shall be prosecuted in the General Court, in case they be not convicted and punished by the Justices.

III. AND if the said riot, rout, or unlawful assembly, be not found by the said Jury, by reason of any maintenance, embracery, partiality, or other misbehaviour of the said Jurors, then the said Justices, and the Sheriff, Under-Sheriff, or Serjeant, shall certify the whole matter and circumstances to the General Court, and also the names of the maintainers and embracers in that behalf, if any be, with their misdemeanours that they know, in order that they may be duly prosecuted, upon pain of every of the said Justices and Sheriff, Under-Sheriff, or Serjeant, to forfeit twenty pounds, if they have no reasonable excuse for not certifying the same, which certificate shall be of like force as the presentment of a Grand

(a) The words "or see" are in the roll, but it is supposed were inserted by mistake.

Jury; and thereupon the said trespassers and offenders being put to answer, they which shall be found guilty, shall be punished by imprisonment and amercement, according to the discretion of a Jury, as is before directed; and if the same trespassers do not appear before the General Court at the first precept, then shall another precept be directed to the Sheriff of the County, to take the said trespassers and offenders, if they may be found, and to bring them at a certain day before the General Court; and if they cannot be found, the Sheriff, Under-Sheriff, or Serjeant, shall make Proclamation in his full County, or Corporation, next ensuing the delivery of the second precept, that they shall appear before the General Court on a day named; and in case the same offenders come not as afore is said, and the Proclamation made and returned, they shall be convict and attainted of the riot, assembly, or rout aforesaid.

Penalty on Justices for neglect of the duties prescribed by this Act.

IV. AND moreover the Justices of Peace in every County or Corporation, where such riot, assembly, or rout of people shall be made, in case the same be made in their presence, or if none be present, then the Justices having notice thereof, together with the Sheriff, Under-Sheriff, or Serjeant, of the same County or Corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they shall be found in default of the execution of the said act.

Duty of the General Court in case of such neglect.

V. AND on such default of the Justices and Sheriff, Under Sheriff, or Serjeant, a commission shall go from the General Court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said Justices, Sheriff, Under-Sheriff, or Serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the Judges; and the said Commissioners presently shall return into the General Court the inquests and matters before them in this behalf taken and found:

Persons convicted of Riots, may be imprisoned for one year.

VI. But no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this Act, shall be punished by imprisonment and amercement, at the discretion of a Jury, under the like limitation.

C H A P. XXIX.

An Act prescribing a Method of protesting Inland Bills of Exchange, and allowing Assignees of Obligations to bring Actions thereupon in their own Names.

[Passed the 4th of December, 1786.]

Mode of protesting inland bills of exchange.

I. BE *it enacted by the General Assembly*, That if a Bill of Exchange, for the sum of five pounds, or upwards, dated at any place in *Virginia*, drawn upon a person at any other place therein, expressed to be for value received, and payable at a certain number of days, weeks, or months after date, being presented to the person, upon whom it shall be drawn, shall not be accepted by subscribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the Bill, or being accepted in that manner, and not otherwise, shall not be paid before the expiration of three days after it shall become due, the person to whom it shall be payable, or his Agent, or Assigns, may cause the Bill to be protested by a Notary Public, or if there be no such, by any other person in presence of two or more credible witnesses, for non-acceptance, in the form or to the effect following, written under a fair copy of the Bill:

Form of the protest.

KNOW all men, that I, , on the day of , at the usual place of abode of the above named , presented to him the Bill, of which the above is a copy, and which the said did not accept, wherefore I the said , do hereby protest the said Bill. Dated at , this day of ;"

Or for non-payment after acceptance, in the same form or to the same effect, except that the words " presented to him the Bill, of which the above is a copy, and which the said did not accept," shall be left out, and instead of them, the words " demanded payment of the Bill, of which the above is a copy, and which the said did not pay," be inserted:

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Notice to the drawer.

Payee neglecting to protest or give notice, liable to costs and damages.

And the Drawer, such protest being sent to him, or notice thereof in writing being given to him, or left at the place of his usual abode, within fourteen days thereafter, shall pay the money mentioned in the Bill to the person entitled to it, with interest, at the rate of five *per centum* by the year, from the day of the protest; and he, to whom the Bill shall be payable, neglecting to procure the protest to be made, or due notice thereof to be given, shall be liable for all costs and damages accruing thereby.

New bills to be given when the first are lost.

II. IF the Bill shall be lost, or shall miscarry, the Drawer shall sign and deliver another of the same tenour, sufficient security being given to indemnify him against all persons who may claim under the former.

Action of debt may be maintained on a note or writing for money or tobacco.

III. AN action of debt may be maintained upon a Note or Writing, by which the person signing the same, shall promise or oblige himself to pay a sum of money or quantity of tobacco to another.

Assignments of bonds, bills, &c. valid, and assignees may sue in their own names, allowing just discounts.

IV. ASSIGNMENTS of Bonds, Bills, and Promissory Notes, and other writings obligatory, for payment of money or tobacco, shall be valid; and an Assignee of any such, may thereupon maintain an action of debt, in his own name, but shall allow all just discounts, not only against himself, but against the Assignor, before notice of the assignment was given to the Defendant.

C H A P. XXX.

An Act against conveying or taking pretensed Titles.

[Passed the 6th of December, 1786.]

Punishment of those who sell or purchase pretensed titles to lands or tenements.

BE *it enacted by the General Assembly*, That no person shall convey or take, or bargain to convey or take, any pretensed title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims, shall have been in possession of the same, or of the reversion or remainder thereof, one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will sue as well for himself as for the Commonwealth: But any person lawfully possessed of lands or tenements, or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretensed title of any other person, so far, and so far only, as it may confirm his former estate.

C H A P. XXXI.

An Act against Usury.

[Passed the 8th of December, 1786.]

Rate of legal interest;

Bonds, contracts, conveyances, &c. for a greater rate, void.

I. BE *it enacted by the General Assembly*, That no person shall hereafter, upon any Contract, take directly or indirectly, for loan of any money, wares, or merchandise, or other commodity, above the value of five pounds, for the forbearance of one hundred pounds for a year, and after that rate for a greater or lesser sum, or for a longer or shorter time; and all Bonds, Contracts, Covenants, Conveyances, or Assurances hereafter to be made, for payment or delivery of any money, or goods, so to be lent, on which a higher interest is reserved or taken, than is hereby allowed, shall be utterly void.

Penalty on person's taking a greater rate.

II. IF any person shall, by any way or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive, for the loan of, or giving day of payment for money, wares, merchandise, or other commodity, above the rate of five pounds for one hundred pounds for one year, every person so offending, shall forfeit double the value of the money, wares, merchandise, or commodity so lent, exchanged, or shifted; one moiety to the use of the Commonwealth, and the other to the informer, to be recovered with costs.

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How relief may be obtained against usurious contracts.

III. ANY Borrower of money, or goods, may exhibit a Bill in Chancery against the Lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them, relative to such loan, or the re-payment thereof, and the interest or consideration for the same; and if thereupon, it shall appear, that more than lawful interest was reserved, the Lender shall be obliged to accept his principal money, without any interest, or other consideration, and pay costs, but shall be discharged of all other penalties of this Act.

Rates of brokerage on loans.

IV. EVERY Broker, Solicitor, or Driver of Bargains, who shall hereafter directly or indirectly, take or receive more than the rate or value of five shillings, for brokerage, or soliciting the loan or forbearance of one hundred pounds for a year, or above one shilling for making or renewing the Bond or Bill, for such loan or forbearance, or for any Counter-Bond or Bill, concerning the same, shall forfeit for every offence, twenty pounds to the Commonwealth and informer, to be recovered and divided, as herein before is mentioned.

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General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 15th Day of *October*, in the Year of our Lord, 1787.

CHAP. XXXII.

An Act to supply the Defect of Evidence of the Royal Assent to certain Acts of Assembly under the former Government.

[Passed the 14th of December, 1787.]

Preamble.

I. WHEREAS divers Acts of the General Assembly of *Virginia*, as well public as private, were passed during the former regal Government, with clauses therein for their suspension until the Royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great-Britain, was registered in the Council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase-money, but valuable improvements: For remedy wherein,

What evidence may be received of the royal assent to certain Acts passed under the former government.

II. *BE it enacted by the General Assembly*, That from and after the passing of this Act, when in any Court of Law or Equity a question shall arise, whether an Act of Assembly passed with a clause suspending such Act until the Royal approbation thereof was obtained, hath received such approbation, every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such Act, or a certificate from the Council books that such assent was registered therein; any law, usage, or custom, to the contrary notwithstanding.

CHAP. XXXIII.

An Act for the Relief of Persons who have been, or may be injured by the Destruction of the Records of County Courts.

[Passed the 17th of December, 1787.]

Preamble.

I. WHEREAS the records of several County Courts within this Commonwealth, and other papers of consequence, have been, or may be destroyed by fraud, accident, or otherwise, to the great injury of the Citizens of this Commonwealth: For relief, therefore, of such persons whose estates, titles, or interests have been, or may be affected thereby;

County Courts to admit to record deeds, wills, bonds and other papers which have been recorded, or filed where the records

II. *BE it enacted by the General Assembly*, That the Courts of the Counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the Clerk of the Court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same so attested, or of any judgment, decree, or order of Court, in like manner attested, or of any inventory or other document before admitted to record in such Court, and of all

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bonds, bills, notes, and all other papers neceſſarily filed in the office of ſuch County, (the original of the ſame being loſt, or otherwiſe deſtroyed) ſhall be produced to them, ſhall order the Clerk again to record all ſuch original deeds, copies of deeds, or wills, with the ſaid indorſements reſpectively; and all ſuch copies of judgments, decrees, and orders of the Court of their County, or of inventories or other documents; and the ſaid Clerk, when he ſhall have recorded any thing in purſuance of this Act, ſhall indorſe on the ſame that the original had been loſt or deſtroyed, and ſhall make an entry to the ſame effect on the record with the thing recorded, which ſhall have the ſame operation and effect in Law, to all intents and purpoſes, as the original record would have had. have been deſtroyed.

III. *AND be it alſo enacted*, That the Clerks of the ſeveral Counties ſhall do and perform the ſervices in this Act mentioned, for the ſame fees that are allowed by law in other caſes, for a copy of any thing herein beforementioned; and in like manner, ſhall take no other or greater fee for recording any deed which hath been already recorded, or ſhall be made only by occaſion of the misfortune aforeſaid, for ſettling the right or title of any perſon or perſons whatſoever, to lands and tenements, ſlaves, or goods and chattels, than in other caſes is, or ſhall be allowed by Law for the copy of any ſuch deed; any law, uſage, or cuſtom, to the contrary notwithſtanding. Clerks fees for recording them.

IV. *AND be it further enacted*, That it ſhall and may be lawful for the Governor, with the advice of Council, to iſſue one or more commiſſions, as the caſe may require, under the ſeal of the Commonwealth, to nine able and diſcreet perſons directed, giving them, or any of them full power and authority to meet at ſome convenient place, by them to be appointed, and to adjourn from time to time as they ſhall think fit, and to ſummon, hear, and examine all witneſſes, at the inſtance of any perſon, touching the premiſes, and to take their depoſitions in writing, and to return the ſame with ſuch commiſſion or commiſſions, to the Executive; which depoſitions ſhall be by them laid before the General Aſſembly at the next Seſſion, to the end that they may be enabled to grant ſuch effectual relief to the ſufferers by the loſs of the ſaid records as to them ſhall ſeem juſt and reaſonable. And the ſaid commiſſioners ſhall have power to appoint ſome perſon ſkilled in clerkſhip, to attend them for keeping a journal of their proceedings, and drawing the depoſitions aforeſaid; which perſon ſhall be paid for his ſervices by each County reſpectively. Governor and Council to appoint commiſſioners to take depoſitions reſpecting records deſtroyed. Depoſitions be laid before the General Aſſembly.

C H A P. RRRIV.

An Act to authoriſe the Eſtabliſhment of Fire Companies.

[Paſſed the 7th of January, 1788.]

I. WHEREAS the danger to which the ſeveral towns within this Commonwealth are expoſed from fire, is chiefly occaſioned by the want of Fire-Companies duly organized, and it is neceſſary that ſuch companies be incorporated, in order to give them their full effect: *Be it enacted*, that it ſhall be lawful for any number of perſons reſident within any Town, Borough, or Corporation, within this Commonwealth, exceeding forty perſons, to form themſelves into a company or companies for the purpoſe of extinguiſhing fire, who on having their names and ſubſcriptions recorded in the Court of the County or Corporation where they reſide, are hereby authoriſed to make ſuch rules and regulations as to a majority of the ſaid company or companies may ſeem proper and neceſſary for the procuring of Engines, and other neceſſary implements for working the ſaid Engines, and exerciſing the companies raiſed. And that all fines and forfeitures for non-attendance or delinquency impoſed by the ſaid regulations, not exceeding twenty-five ſhillings, ſhall be recoverable before a ſingle Magiſtrate on proof of ſuch delinquency, which ſaid fines and forfeitures ſhall be applied to the purpoſes of their inſtitutions. Preamble. Fire-Companies, how to be formed. May eſtabliſh rules for their government. Fines incurred by the members, how recoverable.

II. *PROVIDED always*, That all Bye-laws or rules to be made by virtue of this Act, which are contrary to the Conſtitution or Laws of the Commonwealth, ſhall be null and void. Bye-laws not to contravene the conſtitution or laws.

1788.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord, 1788.

CHAP. XXXV.

An Act to prevent the Importation of Convicts into this Commonwealth.

[Passed the 13th of November, 1788.]

Preamble.

I. WHEREAS it has been represented to this General Assembly, by the United States in Congress, that a practice has prevailed, for some time past, of importing felons convict into this State, under various pretences, which said felons convict so imported have been sold and dispersed among the people of this State, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *Be it enacted*, that from and after the first day of *January* next, no Captain or Master of any vessel, or any other person, coming into this Commonwealth, by land or by water, shall import, or bring with him, any person who shall have been a felon convict, or under sentence of death, or any other legal disability incurred by a criminal prosecution, or who shall be delivered to him from any prison or place of confinement, in any place out of the United States.

No felons convict, under sentence of death, or other legal disability to be brought into the state.

Punishment of those who bring them or offer them for sale.

II. *AND be it further enacted*, That every Captain or Master of a vessel, or any other person, who shall presume to import, or bring into this Commonwealth, by land or by water, or shall sell or offer for sale, any such person as above described, shall suffer three months imprisonment, without bail or mainprize, and forfeit and pay for every such person so brought and imported, or sold or offered for sale, the penalty of fifty pounds current money of *Virginia*, one half to the Commonwealth, and the other half to the person who shall give information thereof; which said penalty shall be recovered by action of debt, or information, in any Court of Record, in which the Defendant shall be ruled to give special bail.

CHAP. RRRVI.

An Act to disable certain Officers under the Continental Government from holding Offices under the authority of this Commonwealth.

[Passed the 8th of December, 1788.]

Preamble.

I. WHEREAS the good people of this Commonwealth, in Convention assembled, did on the twenty-fifth day of *June* last, ratify a Constitution for the Government of the United States of *America*, the operations of which will soon commence; and whereas it is judged expedient and necessary that all those who shall be employed in the administration of the said Government, ought to be disqualified from holding or administering any office or place whatsoever under the Government of this Commonwealth:

Officers under the United States incapable of holding offices under

II. *BE it therefore enacted by the General Assembly*, That the members of the Congress of the United States, and all persons who shall hold any Legislative, Executive, or Judicial Office, or other Lucrative Office whatsoever under the authority of the United States, shall be ineligible to, and incapable of holding any Seat in either House of the General As-

1788.

ſembly, or any Legiſlative, Executive, or Judicial Office, or other Lucrative Office whatſoever under the Government of this Commonwealth. *Provided nevertheleſs*, that ſuch diſqualification ſhall not extend to militia Officers, or the Magiſtrates of County Courts.

the Government of the State. Diſqualification not to extend to militia Officers or Magiſtrates.

CHAP. XXXVII.

An Act concerning the Credentials of the Senators, of this Commonwealth in Congreſs.

[Paſſed the 22d of December, 1788.]

I. BE *it enacted by the General Aſſembly*, That ſo ſoon as any election ſhall be made of Senators for this Commonwealth, in purſuance of the Conſtitution of the United States of *America*, the Clerk of the Houſe of Delegates ſhall notify the ſame to the Governor, who ſhall cauſe a Credential to be made out, and the Seal of the Commonwealth affixed thereto, ſhall ſign the ſame, and cauſe it to be delivered to each Senator; which Credential ſhall be in the words following:

Governor to cauſe credentials to be delivered to the Senators.

VIRGINIA, *to wit: The Legiſlature of this Commonwealth, on the day of , one thouſand ſeven hundred and , having, in purſuance of the Conſtitution for the United States of* America, *choſen , Eſquire, a Senator, I, , being Governor or Chief Magiſtrate of the Commonwealth, do hereby certify the ſame to the Senate of the ſaid United States. Given under my hand, and the ſeal of the Commonwealth, this day of , one thouſand ſeven hundred and .*

Form of credentials;

A like notification ſhall be made, and a like Credential ſhall be delivered to *Richard Henry Lee*, and *William Grayſon*, Eſquires, reſpectively, who have been choſen Senators for this Commonwealth.

II. WHENEVER the Executive ſhall, by virtue of the ſaid Conſtitution, make a temporary appointment of a Senator, a Credential ſhall be prepared with the forms and ſolemnities aforeſaid, and ſhall be delivered to ſuch temporary Senator, in the words following:

VIRGINIA, *to wit:* A. B. *Eſquire, who was duly choſen a Senator for this Commonwealth, in purſuance of the Conſtitution for the United States of* America, *having died (reſigned, or otherwiſe, as the caſe may be) during the receſs of the Legiſlature of the Commonwealth, I, , being Governor or Chief Magiſtrate of the Commonwealth, have therefore thought fit, by and with the advice and conſent of the Privy Council, or Council of State, and by virtue of the ſaid Conſtitution, to appoint , Eſquire, to be and act as a Senator for the Commonwealth, until the next meeting of the Legiſlature thereof. Given under my hand, and the ſeal of the Commonwealth, this day of , one thouſand ſeven hundred and .*

In caſe of temporary appointments.

CHAP. XXXVIII.

An Act allowing travelling Expences to the Judges of the General Court.

[Paſſed the 23d of December, 1788.]

I. BE *it enacted by the General Aſſembly*, That in conſideration of the additional ſervices to be performed by the Judges of the General Court, as Judges of the Diſtrict Courts, they ſhall receive (excluſive of their ſalaries eſtabliſhed by Law) each the ſum of ſixpence per mile, for travelling to and from the Courts of their reſpective Circuits.

Judges allowed ſix-pence per mile.

II. THE Treaſurer ſhall half yearly advance to each of the ſaid Judges upon the allowance hereby made to them, a ſum for travelling expences, not exceeding twenty-five pounds, to be accounted for by them reſpectively.

Treaſurer to advance half yearly money for travelling expences.

1788.

CHAP. XXXIX.

An Act concerning the Election of Members of the General Assembly.

[Passed the 25th of December, 1788.]

Preamble.

I. WHEREAS the mode of contesting disputed Elections hath heretofore been found to be attended with great inconvenience and delay, *Be it enacted by the General Assembly*, that any person intending to contest the Election of any person returned to serve as a Senator or Delegate, from any County, shall, within twenty days after the assembling of the Sheriffs to make a return in the former case, or within ten days after the day of Election in the latter, give to the person returned to serve notice thereof in writing, and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the Election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid, shall, within twenty days after receiving such notice, deliver the like lists on his part.

Notices & lists of exceptionable votes to be delivered by each to the other.

II. WHERE the contest is for the office of a Senator, any one or more of the Courts in the Senatorial District, or where it is for the office of a Delegate, the Court of the County, shall, upon the application of either party, appoint five Commissioners to take the depositions of such witnesses as shall be produced to them, any three of which said Commissioners shall be sufficient for the purpose. But no Commissioner shall act without having first taken, before some Justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party, to the other.

Commissioners to take depositions, how to be appointed.

III. NOTICE in any of the cases before-mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty-one years, belonging to his family, other than a Negro or Mulatto, or, in case of their absence, then at the dwelling-house, shall be deemed sufficient. The depositions shall be certified by the Commissioners taking the same, sealed up and sent by them to the Clerk of that House of which the person was returned a Member, without delay.

Notices how to be given.

IV. COMPLAINT shall be lodged against a Member within ten days after the meeting of the Assembly, where the contested Election shall have been holden at the stated annual period, or within twenty days after the Election, where such Election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be, by the Clerk of each House, respectively, delivered to the Speaker thereof, to be committed with the petition of the party complaining, and shall be received and read as evidence upon the hearing thereof; subject, however, to the exceptions of the opposite party.

Complaints when to be lodged.

V. SUBPOENAS for witnesses shall be issued by the Clerks of the County Courts upon the application of either party. And the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties, as witnesses attending the County Courts.

Witnesses how summoned and privileged.

VI. IF any person shall vote a second time, at any Election, for Members of the General Assembly, he shall forfeit and pay ten pounds, to be recovered, with costs of suit, in any Court of Record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same.

Penalty for voting twice at elections.

VII. *AND be it further enacted*, That the Sheriff conducting the Election in any County in the District of *Kentucky*, shall, at the request of any one or more of the Candidates, adjourn the Election until the next day, although the Electors who appear be not too numerous to be polled before sun-setting, or there be no rain, or rise of water courses.

VIII. *AND be it further enacted*, That the several County Courts shall be empowered, for good cause to them shewn, to remit any penalty incurred by a Freeholder, for not having given his vote at any Election for a Delegate or Senator, according to law.

County Courts may remit penalties for not voting.

1788.

IX. SO much of every Act and Acts, as comes within the purview of this Act, shall be, and the same is hereby repealed. Repealing clause.

CHAP. XL.

An Act concerning the Territory ceded by this Commonwealth to the United States.

[Passed the 30th of December, 1788.]

I. WHEREAS the United States in Congress assembled, did, on the seventh day of *July*, in the year of our Lord one thousand seven hundred and eighty-six, state certain reasons, shewing that a division of the Territory which hath been ceded to the said United States by this Commonwealth, into States, in conformity to the terms of Cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the Act of Cession, so far as to empower Congress to make such a division of the said Territory into distinct and republican States, not more than five, nor less than three in number, as the situation of that Country and future circumstances might require: And the said United States in Congress assembled, have in an ordinance for the government of the Territory North-west of the river *Ohio*, passed on the thirteenth of *July*, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original States, and the People and States in the said Territory, viz. Preamble.

THAT there shall be formed in the said Territory not less than three, nor more than five States, and the boundaries of the said States as soon as Virginia *shall alter her Act of Cession, and consent to the same, shall become fixed and established as follows, to wit: The Western State in the said Territory, shall be bounded by the* Mississippi, *the* Ohio, *and* Wabash *rivers, a direct line drawn from the* Wabash *and* Post Vincent's *due North to the territorial line, between the United States and* Canada, *and by the said territorial line to the* Lake of the Wood *and* Mississippi*: The middle State shall be bounded by the said direct line, the* Wabash *from* Post Vincent's *to the* Ohio, *by the* Ohio, *by a direct line drawn due North from the mouth of the* Great Miami *to the said territorial line, and by the said territorial line. The Eastern State shall be bounded by the last mentioned direct line, the* Ohio, Pennsylvania, *and the said territorial line. Provided however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies North of an East and West line, drawn through the Southerly bend or extreme of lake* Michegan. *And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent Constitution and state Government, provided the Constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.*

And it is expedient that this Commonwealth do assent to the proposed alteration so as to ratify and confirm the said Article of Compact between the original States, and the People and States in the said Territory.

II. *BE it therefore enacted by the General Assembly*, That the afore-recited Article of Compact between the original States, and the People and States in the Territory North-west of *Ohio* river, be, and the same is hereby ratified and confirmed, any thing to the contrary, in the deed of Cession of the said Territory by this Commonwealth to the United States, notwithstanding. An article of the compact between the United States and the people & states North West of the Ohio, ratified by this Commonwealth.

1789.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 19th Day of *October*, in the Year of our Lord, 1789.

CHAP. XLI.

An Act for the ſafe keeping of Priſoners committed under the Authority of the United States, into any of the Jails of this Commonwealth.

[Paſſed the 12th of November, 1789.]

Jailors to receive priſoners of the United States.

I. BE *it enacted by the General Aſſembly,* That it ſhall be the duty of the Keeper of the Jail in every Diſtrict, County, or Corporation within this Commonwealth, to receive into his cuſtody any priſoner or priſoners, who may be from time to time committed to his charge, under the authority of the United States, and to ſafe keep every ſuch priſoner or priſoners according to the warrant or precept of commitment, until he ſhall be diſcharged by the due courſe of the laws of the United States.

Penalties on them for neglect of duty.

II. *AND be it further enacted,* That the Keeper of every Jail aforeſaid, ſhall be ſubject to the ſame pains and penalties for any neglect or failure of duty herein, as he would be ſubject to, by the laws of this Commonwealth, for a like neglect or failure, in the caſe of a priſoner committed under the authority of the ſaid laws.

United States to pay for the uſe of the jail, and to ſupport priſoners committed for offences.

III. *PROVIDED always,* That the United States do pay or cauſe to be paid for the uſe and keeping of ſuch Jails, at the rate of fifty cents per month, for each priſoner, that ſhall under their authority be committed thereto, during the time ſuch priſoner ſhall be therein confined, and moreover, do ſupport ſuch of the ſaid priſoners, as ſhall be committed for offences.

CHAP. XLII.

An Act authoriſing the Governor of this Commonwealth, to convey certain Land to the United States, for the purpoſe of building a Light-Houſe.

[Paſſed the 13th of November, 1789.]

The Governor to convey land at Cape Henry to the United States.

I. BE *it enacted by the General Aſſembly,* That it ſhall and may be lawful for the Governor of this Commonwealth, and he is hereby fully authoriſed, for and in behalf of this Commonwealth, by proper deeds and inſtruments in writing, under his hand and the Seal of this Commonwealth, to convey, transfer, aſſign, and make over unto the United States in Congreſs aſſembled, for the uſe of the ſaid United States, all intereſt in, and right and title to, as well all the juriſdiction which this Commonwealth poſſeſſes, over ſo much of the public lands, not exceeding two acres, ſituate, lying and being in the County of *Princeſs Anne*, at a place commonly called the head land of *Cape Henry*, as ſhall be ſufficient to erect a Light-Houſe, ſubject to the terms and conditions following; that is to ſay, that a Light-Houſe ſhall be erected upon the ſaid land, and that all charges and expences of building, and re-building, when neceſſary, and keeping in good repair, the ſaid Light-Houſe, together with the ſalaries, wages or hire of the perſon or perſons appointed by the Preſident of the United States for the ſuperintendance and care of the ſame, and all

United States to build thereon a Light-Houſe; to ſupport, repair and rebuild it when neceſſary.

1789.

the neceſſary ſupplies, with which a Light-houſe ought to be furniſhed, ſhall be defrayed out of the Treaſury of the United States: If a Light-houſe ſhall not be erected within the ſpace of ſeven years, after the Ceſſion of the ſaid two acres of land, by this Commonwealth to the United States in Congreſs aſſembled, or if at any time thereafter, the ſaid Light-houſe, ſhall be ſuffered to fall into decay, or be rendered uſeleſs, as to the purpoſes for which it is to be erected, and ſo continue for the aforeſaid period of ſeven years, then and in thoſe caſes, the property in the ſoil and juriſdiction, over the territory hereby directed to be veſted in the United States in Congreſs aſſembled, ſhall revert to this Commonwealth, and be conſidered as the property, and ſubject to the juriſdiction of the ſame, in like manner, as if this Act had never been made.

If not built within ſeven years, or rendered uſeleſs for the ſame period, the land to revert to the Commonwealth.

II. *PROVIDED*, That nothing in this Act contained, ſhall be conſtrued to affect the right of this State to any materials heretofore placed at or near *Cape Henry*, for the purpoſe of erecting a Light-houſe; and that the Citizens of this Commonwealth ſhall not, in conſequence of this Ceſſion, be debarred from the privileges they now enjoy, of hauling their ſeines and fiſhing on the ſhores of the ſaid land ſo ceded by this Act, to the United States, for the purpoſe of building a Light-houſe.

The right of the ſtate to certain materials lying thereon, and of its citizens to fiſh on the ſhores thereof, not to be affected.

C H A P. XLIII.

An Act concerning Homicide by Misfortune.

[Paſſed the 18th of November, 1789.]

BE *it enacted by the General Aſſembly*, That in caſe it be found by the Country, that any man by misfortune, or in his own defence, or in other manner without felony, did kill another, he ſhall be acquitted.

Any perſon killing another without felony, to be acquitted.

C H A P. XLIV.

An Act allowing a Bill of Exceptions to be Sealed.

[Paſſed the 18th of November, 1789.]

BE *it enacted by the General Aſſembly*, That when one impleaded before any Court, and in any cauſe, where Appeal, Writ of Error, or Superſedeas lies to a higher Court, doth alledge an Exception, praying that the Juſtices will allow it, if they will not allow it, and he that alledgeth the Exception, do write the ſame Exception, and require that the Juſtices will put their ſeals in teſtimony thereof, the Juſtices, or the greater part of them preſent ſhall ſo do; and if ſuch higher Court upon complaint made of the ſaid Juſtices, cauſe the Record to come before them, and the ſame Exception be not found in the roll, and the Plaintiff ſhew the Exception written, with the ſeals of the Juſtices put to it, the Juſtices ſhall be commanded, that they appear at a certain day, either to confeſs or deny their ſeals; and if the Juſtices cannot deny their ſeals, they ſhall proceed to judgment according to the ſame Exception, as it ought to be allowed or diſallowed.

Bills of exceptions to be ſealed.

If exceptions be omitted in the record, Juſtices to be ſummoned to confeſs or deny their ſeals.

C H A P. XLV.

An Act againſt thoſe who counterfeit Letters or Privy Tokens, to receive Money or Goods in other Mens Names.

[Paſſed the 18th of November, 1789.]

I. WHEREAS many evil diſpoſed perſons, have falſely and deceitfully contrived, deviſed and imagined Privy Tokens and Counterfeit Letters in other mens names, unto divers perſons, their ſpecial friends and acquaintances, for the obtaining of money,

Preamble.

1789.

goods and chattels of the same persons, their friends and acquaintances, by colour whereof the said evil disposed persons, have deceitfully and unlawfully obtained and gotten great substance of money, goods and chattels into their hands and possession, contrary to right and conscience:

Any person obtaining another's money or goods by false tokens, to be imprisoned and set upon the pillory.

II. *BE it enacted by the General Assembly*, That if any person or persons, shall falsely and deceitfully obtain or get into his or their hands or possession, any money, goods or chattels of any other person or persons, by colour and means of any such false Token, or Counterfeit Letter, made in any other man's name as is aforesaid, every such person and persons so offending, and being thereof lawfully convicted in the Court of the District, in which such offence shall have been committed, shall have and suffer such correction and punishment, by imprisonment of his body, without bail or mainprize, for any space, not exceeding one year, and setting upon the pillory, as shall be unto him, or them, limited, adjudged or appointed by the said Court.

Person injured, not to lose his remedy by action.

III. SAVING to the party grieved by such deceit, such remedy by way of action or otherwise, of and for the same money, goods and chattels so obtained, as he might have had, if this Act had never been made; any thing in the same contained to the contrary, in any wise notwithstanding.

CHAP. XLVI.

An Act against the embezzling of Records.

[Passed the 19th of November, 1789.]

Felony to steal or procure to be stolen any record, writ, or process, whereby any judgment shall be reversed.

BE *it enacted by the General Assembly*, That if any Record, or parcel of the same, Writ, Return, Panel, Process, or Warrant of Attorney, in any Court within this Commonwealth be willingly stolen, taken away, withdrawn, or avoided, by any Clerk, or by any other person, because whereof, any judgment shall be reversed, such stealer, taker away, withdrawer, or avoider, their procurers, counsellors and abettors, being thereof indicted, and duly convicted, by their own confession, or by inquest to be taken of lawful men, shall be judged for Felons, and shall incur the pain of felony.

CHAP. XLVII.

An Act concerning the Benefit of Clergy.

[Passed the 27th of November, 1789.]

Benefit of Clergy, in what offences, not allowed to principals in the first degree.

I. BE *it enacted and declared by the General Assembly*, That the Benefit of Clergy shall not be allowed to principals in the first degree, First, in Murder; secondly, or in Burglary; thirdly, or in Arson at common Law; fourthly, or for the wilful burning of any Court-house, or County or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the felonious taking of any goods or chattels out of any Church, Chapel, or Meeting-house belonging thereto; sixthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-place, the Owner or Dweller in the same House or Dwelling-place, his wife, his children, or servants, then being within, and put in fear and dread by the same; seventhly, or for the robbing of any person or persons in or near about any highway; eighthly, or for the felonious stealing of any Horse, Gelding, or Mare; ninthly, or for the felonious breaking of any Dwelling-house by day, and taking away of any goods or chattels, being in any Dwelling-house, the owner or any person being therein and put in fear.

Or in the second degree.

II. THE Benefit of Clergy shall not be allowed to principals in the second degree, in any of the cases abovementioned.

In what offences, not

III. IT shall not be allowed to accessaries before the fact, first, in Murder; secondly, or Burglary; thirdly, or Arson at common Law; fourthly, or for the wilful burning of any

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Court-house, or County, or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-places, the Owner or Dweller in the same Dwelling-house or Dwelling-place, his wife, his children or servants then being within and put in fear and dread by the same; sixthly, or for the robbing of any person or persons in or near about any Highway.

allowed to accessaries before the fact.

IV. IT shall be allowed to principals and accessaries in all offences which would otherwise be without Clergy, whether the same be newly created by any Act of the General Assembly, or exist under the common Law, unless it be taken away by the express words of some Act of Assembly.

When allowed, unless expressly taken away by Act of Assembly.

V. IT shall not be allowed to any person more than once, except in the following case, that is to say: Whensoever any person shall have been admitted to the Benefit of Clergy, such admission shall not operate as a pardon or discharge for other offences of a Clergyable nature, committed by him before that admission to the Benefit of Clergy, but he shall be again allowed the Benefit of Clergy for every other offence of a Clergyable nature committed by him before that admission to the Benefit of Clergy, and shall be burned in the hand for every such offence.

How often.

VI. BUT if any person who shall have been once admitted to the Benefit of Clergy, shall before that admission have committed any offence, in which the Benefit of Clergy is not allowed by Law, or shall after that admission commit any offence in which the Benefit of Clergy is even allowed by Law, he shall suffer death without the Benefit of Clergy.

VII. A FEMALE shall in all cases receive the same judgment, and stand in the same condition with respect to the Benefit of Clergy, as a Male.

Females entitled to it, in like manner as males.

VIII. A SLAVE shall in all cases receive the same judgment, and stand in the same condition, with respect to the Benefit of Clergy, as a free Negro or Mulatto.

And slaves as free Negroes or Mulattoes.

IX. NOTHING in this Act contained, shall be construed to take away the Benefit of Clergy, from any offence, in which it is now allowed by any Act of the General Assembly, or to allow it in any offence, from which it is now expressly taken away, by any Act of the General Assembly.

Not taken away by this Act, when expressly allowed by any other, or allowed, when expressly taken away.

CHAP. XLVIII.

An Act against such as shall procure or commit wilful Perjury, and against Embracery.

[Passed the 1st of December, 1789.]

I. BE *it enacted by the General Assembly*, That all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt Perjury in any matter or cause whatsoever, now depending, or which hereafter shall depend in suit and variance by any writ, action, bill, complaint, or information in any wise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts or damages in any of the Courts of this Commonwealth; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses which shall be sworn to testify *in perpetuam rei memoriam*, or any criminal prosecution, or in any examination or controversy before a Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, that then every such offender or offenders, shall for his, her, or their said offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hundred pounds, and to suffer imprisonment for the space of one year, without bail or mainprize.

Suborners of witnesses, how punished.

II. *AND be it further enacted*, That if any person or persons, either by the subornation, unlawful procurement, sinister persuasion, or means of any other, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful Perjury

Persons guilty of perjury, how punished.

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by his or their deposition in any of the Courts of this Commonwealth, or before any Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, or being examined *in perpetuam rei memoriam*, that then every person and persons so offending, and being thereof duly convicted, shall for his or their said offence be adjudged to pay a fine not exceeding one hundred pounds, and to suffer imprisonment by the space of six months without bail or mainprize, and the oath of such person or persons so offending in any of the cases of perjury or subornation of perjury in this act mentioned, from thenceforth shall not be received in any Court within this Commonwealth, until such time as the judgment given against such person or persons shall be reversed.

their oaths not to be received in any court.

Penalty on a juror taking any thing for giving his verdict.

III. IF any Juror upon any Inquest whatsoever shall take any thing by himself, or another to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him, who will sue for the same, and the other half to the Commonwealth.

Embracers, how punished.

IV. EVERY Embracer who shall procure any Juror to take gain or profit, shall be punished by fine not exceeding two hundred pounds, and imprisonment not exceeding one year.

CHAP. XLIX.

An Act to provide against the Appropriation of Money by Resolution of the Two Houses of Assembly.

[Passed the 3d of December, 1789.]

Preamble.

I. WHEREAS in the passing of those Legislative Acts, which are known under the name of Laws as distinguished from other Acts, which are commonly called Resolutions, certain forms and solemnities have been established for the purpose of obtaining that deliberation which the matter of Laws generally requires; and it hath been the practice of the General Assembly, to grant large sums of money by Resolutions, which are confirmed on a single reading:

No money to be voted by resolution, unless there hath been an appropriation by law.

II. *BE it enacted by the General Assembly*, That no sum of money shall be voted for any use whatsoever by a Resolution only, except where, by some previous Law, a sum of money shall have been appropriated, and by such Resolution, the whole or a part thereof may be particularly applied, in pursuance of the said Law.

CHAP. L.

An Act for the Cession of Ten Miles Square, or any lesser Quantity of Territory within this State, to the United States, in Congress assembled, for the permanent Seat of the General Government.

[Passed the 3d of December, 1789.]

Preamble.

I. WHEREAS the equal and common benefits resulting from the administration of the general Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the Seat of the said Government, as will be most central and convenient to the Citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the *Atlantic* Ocean, through the *Chesapeake* bay, as to the most direct and ready communication with our Fellow-Citizens in the Western Frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited, may be had on the banks of the river *Patowmack*, above tide water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniencies of life, where in a location of ten miles square, if the wisdom of Congress shall so direct, the States of *Pennsylvania*, *Maryland* and *Virginia* may participate in such location:

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II. *BE it therefore enacted by the General Assembly*, That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of this State, and in any part thereof as Congress may by Law direct, shall be, and the same is hereby for ever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil, as of persons, residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States.

Tract of country within this state ceded to the United States for the seat of the general Government.

III. *PROVIDED*, That nothing herein contained, shall be construed to vest in the United States, any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

Reservation of the rights of individuals to the soil.

IV. *AND provided also*, That the jurisdiction of the Laws of this Commonwealth, over the persons and property of individuals residing within the limits of the Cession aforesaid, shall not cease or determine, until Congress, having accepted the said Cession, shall by Law provide for the Government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

When the jurisdiction of the laws of this Commonwealth over the same shall cease.

C H A P. LI.

An Act for the Relief of Creditors against fraudulent Devises.

[Passed the 17th of December, 1789.]

I. WHEREAS it is not reasonable or just, that by the practice or contrivance of any Debtors, their Creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where several persons, having by Bonds or other Specialties bound themselves and their Heirs, have afterwards died, seized in fee-simple of, and in Messuages, Lands, Tenements, and Hereditaments, or having power or authority to dispose of, or charge the same by their Wills or Testaments, have to the defrauding of such their Creditors by their last Wills or Testaments devised the same, or disposed thereof in such manner as such Creditors have lost their said debts: For remedying of which, and for the maintenance of just and upright dealing,

Preamble.

II. *BE it enacted by the General Assembly*, That all Wills and Testaments, limitations, dispositions or appointments, of, or concerning any Messuages, Lands, Tenements or Hereditaments, or of any rent, profit, term or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee-simple in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last Wills or Testaments, shall be deemed and taken (only as against such Creditor or Creditors as aforesaid, his, her and their Heirs, Successors, Executors, Administrators and Assigns, and every of them) to be fraudulent, and clearly, absolutely and utterly void, frustrate and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary, notwithstanding.

Devises of lands, &c. void as to creditors.

An exact copy of the English Statute of 3 & 4 W & Mary Chap: 14

III. AND for the means that such Creditors may be enabled to recover their said debts, *Be it further enacted*, that in the cases beforementioned, every such Creditor shall and may have and maintain, his, her and their action, and actions of debt, upon his, her, and their said Bonds and Specialties, against the Heir and Heirs at Law of such Obligor or Obligors, and such Devisee and Devisees, jointly by virtue of this Act; and such Devisee or Devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any Heir should have been for any false plea by him pleaded, or for not confessing the Lands or Tenements to him descended.

Who may sue heirs and devisees jointly.

IV. *PROVIDED always, and be it enacted by the authority aforesaid*, That where there hath been, or shall be any limitation or appointment, devise or disposition, of, or concerning any Messuages, Lands, Tenements or Hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the Heir at Law, according to, or in pursuance of any marriage contract or agreement in writing, *bona fide* made before such marriage, the

Exception of devises, &c. to pay just debts, or portions in pursuance of any marriage contract.

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ſame, and every of them ſhall be in full force; and the ſame Meſſuages, Lands, Tenements and Hereditaments, ſhall and may be holden and enjoyed by every ſuch perſon or perſons, his, her, and their Heirs, Executors, Adminiſtrators, and Aſſigns, for whom the ſaid limitation, appointment, deviſe or diſpoſition was made, and by his, her, and their Truſtee or Truſtees, his, her, and their Heirs, Executors, Adminiſtrators, and Aſſigns, for ſuch eſtate or intereſt as ſhall be ſo limited or appointed, deviſed or diſpoſed, until ſuch debt or debts, portion or portions, ſhall be raiſed, paid and ſatisfied; any thing in this Act contained to the contrary, notwithſtanding.

V. AND whereas ſeveral perſons being Heirs at Law, to avoid the payment of ſuch juſt debts, as in regard of the Lands, Tenements, and Hereditaments, deſcending to them, they have by law been liable to pay, have ſold, aliened, or made over ſuch Lands, Tenements, or Hereditaments, before any proceſs was or could be iſſued out againſt them:

In what manner an heir is anſwerable where he alienes the lands deſcended.

VI. *BE it further enacted*, That in all caſes where any Heir at Law ſhall be liable to pay the debt of his Anceſtor in regard of any Lands, Tenements, or Hereditaments, deſcending to him, and ſhall ſell, aliene or make over the ſame, before any action brought, or proceſs ſued out againſt him, ſuch Heir at Law ſhall be anſwerable for ſuch debt or debts, in an action or actions of debt, to the value of the ſaid Land ſo by him ſold, aliened, or made over; in which caſes all Creditors ſhall be preferred, as in actions againſt Executors and Adminiſtrators, and ſuch Execution ſhall be taken out upon any judgment or judgments ſo obtained againſt ſuch Heir, to the value of the ſaid Land, as if the ſame were his own proper debt or debts, ſaving that the Lands, Tenements, and Hereditaments, *bona fide* aliened before the action brought, ſhall not be liable to ſuch Execution.

+ I can't understand this —

Heir may plead *riens per diſcent.*

VII. *PROVIDED always, and be it further enacted*, That where any action of debt upon any ſpecialty is brought againſt any Heir, he may plead *riens per diſcent* at the time of the original writ brought, or the bill filed againſt him, any thing herein contained, to the contrary notwithſtanding; and the Plaintiff in ſuch action may reply that he had Lands, Tenements, or Hereditaments from his Anceſtor before the original writ brought, or bill filed; and if upon iſſue joined thereupon, it be found for the Plaintiff, the Jury ſhall enquire of the value of the Lands, Tenements or Hereditaments ſo deſcended, and thereupon Judgment ſhall be given, and Execution ſhall be awarded as aforeſaid; but if Judgment be given againſt ſuch Heir by confeſſion of the action, without confeſſing the aſſets deſcended, or upon demurrer or *nihil dicit*, it ſhall be for the debt and damages, without any writ to enquire of the Lands, Tenements, or Hereditaments, ſo deſcended.

Jury to inquire of the value of the lands if found againſt him; ſuch enquiry unneceſſary where there is judgment by confeſſion, or *nihil dicit.*

Deviſees liable as heirs, in caſe of alienation of the land.

VIII. *PROVIDED alſo, and be it further enacted*, That all and every deviſee and deviſees made liable by this Act, ſhall be liable and chargeable in the ſame manner as the Heir at Law by force of this Act, notwithſtanding the Lands, Tenements and Hereditaments to him or them deviſed, ſhall be aliened before the action brought.

C H A P. LII.

An Act concerning Awards.

[Paſſed the 17th of December, 1789.]

A ſubmiſſion to arbitration may be made a rule of any Court of Record.

I. BE *it enacted by the General Aſſembly*, That it ſhall and may be lawful for all Merchants, and Traders, and others deſiring to end any controverſy, ſuit or quarrel, for which there is no other remedy but by perſonal action or ſuit in equity, by arbitration, to agree, that their ſubmiſſion of the ſuit to the award or umpirage of any perſon or perſons ſhould be made a rule of any Court of Record which the parties ſhall chooſe, and to inſert ſuch their agreement in their ſubmiſſion or the condition of the bond or promiſe, whereby they oblige themſelves, reſpectively, to ſubmit to the award or umpirage of any perſon or perſons; which agreement being ſo made and inſerted in their ſubmiſſion or promiſe, or condition of their reſpective bonds, ſhall or may, upon producing an affidavit thereof made by the witneſſes thereunto, or any one of them, in the Court of which the ſame is agreed to be made a rule, and reading and filing the ſaid affidavit in Court, be entered in the proceedings of ſuch Court, and a rule ſhall be made thereupon by the ſaid Court, that the

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parties ſhall ſubmit to and finally be concluded by the arbitration or umpirage, which ſhall be made concerning them by the arbitration or umpire purſuant to ſuch ſubmiſſion.

II. AND the award made in purſuance of ſuch ſubmiſſion may be entered up as the judgment or decree of the Court, and the ſame execution or proceſs may iſſue thereupon as on other judgments or decrees, and the Court ſhall not invalidate ſuch award, arbitrament, or umpirage, unleſs it be made appear to ſuch Court, that ſuch award, arbitrament, or umpirage was procured by corruption or other undue means, or that there was evident partiality or miſbehaviour in the arbitrators or umpires, or any of them. And any award, arbitrament, or umpirage procured by corruption or other undue means, or where there ſhall have been ſuch evident partiality or miſbehaviour as aforeſaid, ſhall be deemed and judged void and of none effect, and accordingly ſet aſide by the Court in which the ſubmiſſion ſhall be made, ſo as complaint of ſuch corruption or undue means, or evident partiality or miſbehaviour as aforeſaid, be made before the end of the ſecond Court of quarter Seſſions in the caſe of a County Court, or at the end of the ſecond term of any other Court next after ſuch award, arbitrament, or umpirage be made and returned to ſuch Court.

Awards to be entered as the judgment of ſuch court, & execution iſſued thereon. For what conduct of the arbitrators or umpire, ſuch award may be ſet aſide.

When complaint muſt be made thereof.

III. *PROVIDED nevertheleſs*, That nothing herein contained, ſhall be conſtrued to take away from Courts of Equity their power over awards, arbitraments, or umpirages.

Not to affect the power of courts of equity over awards.

C H A P. LIII.

An Act concerning the Erection of the Diſtrict of Kentucky into an Independent State.

[Paſſed the 18th of December, 1789.]

I. WHEREAS it is repreſented to this preſent General Aſſembly, that the Act of laſt Seſſion, intituled, "*An Act concerning the Erection of the Diſtrict of* Kentucky *into an Independent State*," which contains terms materially different from thoſe of the Act of *October* Seſſion, one thouſand ſeven hundred and eighty-five, are found incompatible with the real views of this Commonwealth, as well as injurious to the good people of the ſaid Diſtrict:

Preamble.

BE it enacted by the General Aſſembly, That in the month of *May* next, on the reſpective Court days of the Counties within the ſaid Diſtrict, and at the reſpective places of holding Courts therein, Repreſentatives to continue in appointment for one year, and to compoſe a Convention with the Powers, and for the purpoſes herein after mentioned, ſhall be elected by the free male inhabitants of each County above the age of twenty-one years, in like manner as Delegates to the General Aſſembly have been elected within ſaid Diſtrict, in the proportions following: In the County of *Jefferſon* ſhall be elected five Repreſentatives; in the County of *Nelſon* five Repreſentatives; in the County of *Mercer* five Repreſentatives; in the County of *Lincoln* five Repreſentatives; in the County of *Madiſon* five Repreſentatives; in the County of *Fayette* five Repreſentatives; in the County of *Woodford* five Repreſentatives; in the County of *Bourbon* five Repreſentatives, and in the County of *Maſon* five Repreſentatives: *Provided*, that no free male inhabitant above the age of twenty-one years ſhall vote in any other County, except that in which he reſides, and that no perſon ſhall be capable of being elected, unleſs he has been a reſident within the ſaid Diſtrict at leaſt one year.

Repreſentatives to compoſe a convention, to be elected in the Kentucky diſtrict. Qualification of the electors.

Qualification of the repreſentatives.

II. THAT full opportunity may be given to the good people of exerciſing their right of ſuffrage on an occaſion ſo intereſting to them, each of the Officers holding ſuch Elections, ſhall continue the ſame from day to day, paſſing over *Sunday*, for five days including the firſt day, and ſhall cauſe this Act to be read on each day immediately preceding the opening of the Election, at the door of the Court-houſe, or other convenient place. Each of the ſaid Officers ſhall deliver to each perſon duly elected a Repreſentative, a certificate of his Election, and ſhall tranſmit a general return to the Clerk of the Supreme Court, to be by him laid before the Convention.

Elections to be continued for five days.

Duty of the ſheriffs conducting them.

III. FOR every neglect of any of the duties hereby enjoined on ſuch Officer, he ſhall forfeit one hundred pounds, to be recovered by action of debt, by any perſon ſuing for the ſame.

Penalty on them for neglect.

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The convention to determine on the expediency of erecting the ſaid diſtrict into an independent ſtate, on certain conditions.

IV. THE ſaid Convention ſhall be held at *Danville* on the twenty-ſixth day of *July* next, and ſhall and may proceed, after chooſing a Preſident and other proper Officers, and ſettling the proper rules of proceeding, to conſider and determine whether it be expedient for, and the will of the good people of the ſaid Diſtrict, that the ſame be erected into an Independent State, on the terms and conditions following:

Boundary between the propoſed ſtate & this Commonwealth.

V. *Firſt*---THAT the Boundary between the propoſed State and *Virginia*, ſhall remain the ſame as at preſent ſeparates the Diſtrict from the reſidue of this Commonwealth.

The propoſed ſtate to pay part of the debt of the United States and of this Commonwealth.

VI. *Second*---THAT the propoſed State ſhall take upon itſelf a juſt proportion of the debt of the United States, and the payment of all the Certificates granted on account of the ſeveral expeditions carried on from the *Kentucky* Diſtrict againſt the Indians, ſince the firſt day of *January*, one thouſand ſeven hundred and eighty-five.

Rights to lands derived from this Commonwealth to be ſecured.

VII. *Third*---THAT all private rights and intereſts of Lands within the ſaid Diſtrict, derived from the Laws of *Virginia*, prior to ſuch ſeparation, ſhall remain valid and ſecure under the Laws of the propoſed State, and ſhall be determined by the Laws now exiſting in this State.

How lands of non-reſident proprietors are to be taxed,

VIII. *Fourth*---THAT the Lands within the propoſed State of non-reſident proprietors, ſhall not in any caſe be taxed higher than the Lands of reſidents, at any time prior to the admiſſion of the propoſed State to a vote by its Delegates in Congreſs, where ſuch non-reſidents reſide out of the United States; nor at any time either before or after ſuch admiſſion, where ſuch non-reſidents reſide within this Commonwealth, within which this ſtipulation ſhall be reciprocal; or where ſuch non-reſidents reſide within any other of the United States, which ſhall declare the ſame to be reciprocal within its limits; nor ſhall a neglect of cultivation or improvement of any Land within either the propoſed State or this Commonwealth, belonging to non-reſidents, citizens of the other, ſubject ſuch non-reſidents to forfeiture or other penalty within the term of ſix years, after the admiſſion of the ſaid State into the Fœderal Union.

when forfeited for neglect of cultivation.

Grants of land by this Commonwealth & the propoſed ſtate not to interfere.

IX. *Fifth*---THAT no grant of Land or Land Warrant to be iſſued by the propoſed State, ſhall interfere with any Warrant heretofore iſſued from the Land-Office of *Virginia*, which ſhall be located on Land within ſaid Diſtrict now liable thereto, on or before the firſt day of *September* one thouſand ſeven hundred and ninety-one.

Unlocated lands appropriated to individuals for military ſervices to be diſpoſed of by this Commonwealth.

X. *Sixth*---THAT the unlocated Lands within the ſaid Diſtrict, which ſtand appropriated to individuals, or deſcription of individuals, by the Laws of this Commonwealth, for military or other ſervices, ſhall be exempt from the diſpoſition of the propoſed State, and ſhall remain ſubject to be diſpoſed of by the Commonwealth of *Virginia*, according to ſuch appropriation, until the firſt day of *May*, one thouſand ſeven hundred and ninety-two, and no longer; thereafter the reſidue of all Lands remaining within the limits of the ſaid Diſtrict, ſhall be ſubject to the diſpoſition of the propoſed State.

Navigation of the Ohio to be free and common.

XI. *Seventh*---THAT the uſe and navigation of the river *Ohio*, ſo far as the Territory of the propoſed State, or the Territory which ſhall remain within the limits of this Commonwealth lies thereon, ſhall be free and common to the Citizens of the United States, and the reſpective Juriſdictions of this Commonwealth, and of the propoſed State, on the river as aforeſaid, ſhall be concurrent only with the States which may poſſeſs the oppoſite ſhores of the ſaid river.

Commiſſioners to ſettle diſputes which may ariſe reſpecting the foregoing articles.

XII. *Eighth*---THAT in caſe any complaint or diſpute ſhall at any time ariſe between the Commonwealth of *Virginia* and the ſaid Diſtrict, after it ſhall be an Independent State, concerning the meaning or execution of the foregoing articles, the ſame ſhall be determined by ſix Commiſſioners, of whom two ſhall be choſen by each of the parties, and the remainder by the Commiſſioners ſo firſt appointed.

What number of members neceſſary to proceed to buſineſs, and to determine the queſtion concerning the erection of the

XIII. *PROVIDED however*, That five members aſſembled, ſhall be a ſufficient number to adjourn from to day to day, and to iſſue writs for ſupplying vacancies which may happen from deaths, reſignations, or refuſals to act; a majority of the whole ſhall be a ſufficient number to chooſe a Preſident, ſettle the proper rules of proceeding, authoriſe any number to ſummon a Convention during a receſs, and to act in all other inſtances where a greater number is not expreſsly required. Two thirds of the whole ſhall be a ſufficient

1789.

number to determine on the expediency of forming the ſaid Diſtrict into an Independent State, on the aforeſaid terms and conditions, *Provided* that a majority of the whole number to be elected concur therein.

ſaid diſtrict into an independent ſtate.

XIV. *AND be it further enacted,* That if the ſaid Convention ſhall approve of the erection of the ſaid Diſtrict into an Independent State on the foregoing terms and conditions, they ſhall and may proceed to fix a day, poſterior to the firſt day of *November*, one thouſand ſeven hundred and ninety-one, on which the authority of this Commonwealth, and of its Laws under the exceptions aforeſaid, ſhall ceaſe and determine forever over the propoſed State, and the ſaid Articles become a ſolemn Compact mutually binding on the parties, and unalterable by either without the conſent of the other.

When the authority of this Commonwealth over the ſaid diſtrict ſhall ceaſe.

XV. *PROVIDED however,* That prior to the firſt day of *November*, one thouſand ſeven hundred and ninety-one, the General Government of the United States ſhall aſſent to the erection of the ſaid Diſtrict into an Independent State, ſhall releaſe this Commonwealth from all its Fœderal obligations ariſing from the ſaid Diſtrict, as being part thereof, and ſhall agree that the propoſed State ſhall immediately after the day to be fixed as aforeſaid, poſterior to the firſt day of *November*, one thouſand ſeven hundred and ninety-one, or at ſome convenient time future thereto, be admitted into the Fœderal Union.

The aſſent of the aſſent of the general government to be obtained.

XVI. AND to the end that no period of anarchy may happen to the good people of the propoſed State, it is to be underſtood that the ſaid Convention ſhall have authority to take the neceſſary proviſional meaſures for the election and meeting of a Convention, at ſome time prior to the day fixed for the determination of the authority of this Commonwealth, and of its Laws over ſaid Diſtrict, and poſterior to the firſt day of *November*, one thouſand ſeven hundred and ninety-one, aforeſaid, with full power and authority to frame and eſtabliſh a Fundamental Conſtitution of Government for the propoſed State, and to declare what Laws ſhall be in force therein, until the ſame ſhall be abrogated or altered by the Legiſlative authority acting under the Conſtitution ſo to be framed and eſtabliſhed.

The convention to provide for the eſtabliſhment of a conſtitution of government for the propoſed ſtate.

XVII. *AND be it further enacted,* That the Electors in going to, continuing at, and returning from an election of Members to the ſaid Convention, ſhall be entitled to the ſame privileges from arreſt, as are by Law allowed at an election of Members to the General Aſſembly, and each perſon returned to ſerve as a Member in ſaid Convention, ſhall be entitled to the ſame privileges from arreſt in going to, during his attendance on, and returning from ſaid Convention, as are by Law allowed to the Members of the General Aſſembly.

Privileges of the electors, and of the repreſentatives.

XVIII. THIS Act ſhall be tranſmitted by the Executive, to the Repreſentatives of this Commonwealth in Congreſs, who are hereby inſtructed to uſe their endeavors to obtain from Congreſs a ſpeedy Act to the effect above ſpecified.

The Executive to tranſmit this act to this Commonwealth's Repreſentatives in Congreſs.

1790.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 18th Day of *October*, in the Year of our Lord, 1790.

C H A P. LIV.

An Act to regulate the Inſpection of Hemp.

[Paſſed the 24th of December, 1790.]

Preamble.

I. WHEREAS it is repreſented to this preſent General Aſſembly, that great loſs and inconvenience hath been ſuſtained on account of the preſent mode eſtabliſhed by Law for the Inſpection of Hemp, particularly in permitting the Inſpector to clean that, which may be refuſed by him: For remedy whereof, *Be it enacted*, That from and after the paſſing of this Act, Public Ware-houſes for the reception of Hemp, ſhall be kept at the places herein after mentioned, that is to ſay, at or near the City of *Richmond* and Towns of *Alexandria*, *Fredericksburg*, *Mancheſter*, in that part of the Town of *Peterſburg*, included in the County of *Dinwiddie*, nd at the Great Falls in the County of *Loudoun*; and it ſhall and may be lawful for the Juſtices of the Courts of ſuch Counties, wherein ſuch Inſpections are eſtabliſhed, and they are hereby required upon the receipt of this Act, to provide good and ſufficient Ware-houſes for the reception of all Hemp which may be brought to the ſame; and the ſaid Courts ſhall, and they are hereby required and empowered to agree with ſome perſon or perſons, to erect or rent good and ſufficient Ware-houſes for the reception and preſervation of all Hemp which may be brought to the ſame, and ſhall certify the charges thereof to the Treaſurer of this State, who is hereby directed to pay the ſame out of the aggregate fund.

Inſpections of hemp to be eſtabliſhed at certain places. Warehouſes to be provided.

Inſpectors, how to be appointed.

II. *AND be it further enacted*, That the Courts of the Counties wherein any ſuch Inſpection for the receipt of Hemp ſhall be eſtabliſhed by this act, are hereby required to appoint a fit and able perſon, not being concerned in mercantile or rope-making buſineſs, to have the care and charge of the ſaid Ware-houſe, whoſe duty it ſhall be carefully to inſpect and examine all Hemp which ſhall be brought to his Ware-houſe, ſeparating that which ſhall be ſtrong, dry, and ſound, from that which may be unſound and unfit for exportation, and when ſo ſeparated, ſhall be diſtinguiſhed in the note by him given, in manner following, that is to ſay, all that which ſhall appear clean, dry, and well conditioned, ſhall be termed firſt quality; and that which may appear dry, ſtrong and well conditioned, although not perfectly clean, ſhall be termed ſecond or third rate, according to the cleanneſs of the ſame; but if it ſhall appear on the offering of any hemp for inſpection, that it contains ſo great a quantity of traſh or unſound, ſo as to render it unfit for manufacturing or exportation, the Inſpector ſhall not give his note for the ſame, but the Owner ſhall be at liberty to diſpoſe of it as he may think proper.

Their duty.

Quality of the hemp to be ſpecified in the note.

Allowance to the inſpectors.

III. *AND be it further enacted*, That the Inſpector at any of the ware-houſes by this Act eſtabliſhed, ſhall and may demand and receive for his ſervices as Inſpector, for every groſs ton the ſum of fifteen ſhillings, and for every ton by him refuſed, the ſum of ten ſhillings, and ſo in proportion for any leſſer quantity, to be paid down to the Inſpector on delivering the note, or by the perſon whoſe hemp may be refuſed, (as the caſe may be) one half of which ſum ſhall be for the ſervices of the Inſpector, and the other one half ſo received, ſhall be paid to the Treaſurer of this Commonwealth, or to the Owner of the ware-houſe, (as the caſe may be) quarter-yearly, under the penalty of forfeiting to the Commonwealth, or to the Owner of ſuch ware-houſe three hundred pounds, recoverable on

motion before any Court of Record within this Commonwealth, giving ten days previous notice of such motion.

IV. *AND be it further enacted*, That all hemp, sound and merchantable, distinguished as above directed, shall by the Inspector be re-prized in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, stamped with the quality and weight of each bale, and the Owner's name, which quality, weight and Owner's name shall be entered in a book kept for that purpose, as well as the weight and Owner's name, of any hemp by him refused; and he is hereby required to give a certificate for all hemp by him passed in form following, viz. Hemp to be reprized in bale boxes.

I A. B. *do certify, that* C. D. *hath deposited tons or pounds of hemp, (as the case may be) of first, second or third rate, (as the case may be) passed inspection at the Ware-house of , of which I am Inspector. Witness my hand, this day of , in the year* Form of certificate for hemp inspected and passed.

V. *AND be it further enacted*, That the Inspectors appointed by this Act, previous to the execution of their office, shall take the following oath or affirmation, (as the case may be) viz. Oaths of inspectors.

I A. B. *do solemnly swear or affirm, (as the case may be) diligently to examine and receive all hemp brought to the warehouse where I am Inspector, and that I will not pass any hemp that is not in my judgment dry, sound, well conditioned, and merchantable, nor pass or mark any bale of hemp contrary to the intent and meaning of the Act, intituled* " An Act to regulate the inspection of hemp," *nor refuse any hemp that is in my judgment dry, sound, well conditioned, and fit for exportation, nor fail to enter in a book, as directed by this Act, the weight of all hemp by me so passed or refused, nor alter or give out any hemp, other than that for which the receipt to be taken was given, but that I will in all things well and faithfully discharge my duty as an Inspector, according to the best of my skill and judgment, and agreeably to the intention of the said recited Act, without fear, favour, affection, malice or partiality.* So help me GOD.

VI. *AND be it further enacted*, That if any Court should fail or refuse in providing such houses, scales, screws, or other necessary conveniencies at the places appointed by this Act, which they are hereby authorised and required to do out of the Aggregate Fund aforesaid, they shall forfeit and pay the sum of three hundred pounds, to be recovered with costs by action of debt or information against such Justices jointly, one moiety to the Prosecutor, and the other moiety to the use of the Commonwealth: *And be it further enacted*, That the Act, intituled, " *An Act concerning the inspection of hemp*," shall be, and the same is hereby repealed. Penalty on county courts for not providing warehouses, &c.

1791.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 17th Day of *October*, in the Year of our Lord, 1791.

CHAP. LV.

An Act concerning the Southern Boundary of this State.

[Passed the 7th of December, 1791.]

Preamble.

I. WHEREAS official information hath been received by the General Assembly, that the Legislature of the State of *North-Carolina* have resolved to establish the line commonly called *Walker*'s line, as the boundary between *North-Carolina* and this Commonwealth, and it is judged expedient to confirm and establish the said line on the part of this State: *Be it therefore enacted by the General Assembly*, That the line commonly called and known by the name of *Walker*'s line, shall be, and the same is hereby declared to be the boundary line of this State.

Walker's line declared to be the Southern boundary of this State.

II. *AND be it further enacted*, That in all Courts of Law and Equity within this Commonwealth, the claims for lands lying between the line commonly called *Walker*'s line, and the line commonly called *Henderson*'s line, shall be decided in favour of the oldest title, whether derived from this Commonwealth, or from the State of *North-Carolina*.

Claims to land between *Walker's* and *Henderson's* line, how to be settled.

CHAP. LVI.

An Act for regulating the Navigation of James River, above the Falls of the said River.

[Passed the 17th of December, 1791.]

Number of every boat & owner's name, and residence to be painted on it, and entered into the clerk's office.

I. BE *it enacted*, That every person who shall be Proprietor of any Boat or other Vessel, which shall be employed in navigating the waters of *James* River and its branches above the Great Falls at *Richmond*, in the transportation of any produce or merchandise whatsoever, either raised or manufactured within this Commonwealth, or imported from any other place without the same, shall in the Clerk's Office of the County in which the said Proprietor or Proprietors shall then live, enter the number of each Boat or Vessel so to be employed, which number, together with the name of the County, and the name of the Owner or Owners of such Boat or Vessel, shall be written or painted on each side of the said Vessel, on some conspicuous part of the outside thereof, in large and plain letters, not less than four inches in length.

Penalty for failure.

II. IF the Owner or Owners of any Boat or Vessel, which shall be employed in navigating the waters of the said River, above the Falls thereof as aforesaid, shall fail to enter in the Clerk's Office, as aforesaid, the name or names of the Owner or Owners, the name of the County in which he or they shall reside, and the number of each Boat or other Vessel, as aforesaid, or shall fail to write or paint the name or names of the Owner or Owners of the said Boat or other Vessel in manner above directed, so as to continue plain and legible as long as the said Boat or other Vessel shall be employed in navigation, he, she, or they shall forfeit and pay the sum of twenty shillings for every day he, she, or they shall neglect to comply with the purposes of this Act, to be recovered by any person who may sue for the same, by warrant from a Magistrate, allowing the said Owner or Owners one month after the first day of *April* next, to attend to the requisitions aforesaid.

Commencement of this Act.

III. THIS Act shall commence and be in force, after the first day of *April* next.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 1st Day of *October*, in the Year of our Lord, 1792.

CHAP. LVII.

An Act for reducing into one, the several Acts prescribing the Oath of Fidelity and Oaths of Public Officers.

[Passed the 22d of December, 1792.]

I. BE *it enacted by the General Assembly*, That every person by Law required to give assurance of fidelity, shall for that purpose take an oath in this form:

Form of the oath of fidelity.

I, , *do declare myself a Citizen of the Commonwealth of* Virginia; *I relinquish and renounce the character of Subject or Citizen of any Prince or other State whatsoever, and abjure all allegiance which may be claimed by such Prince or other State; and I do swear to be faithful and true to the said Commonwealth of* Virginia, *so long as I continue a Citizen thereof.* So help me GOD.

II. NO person shall have power to act in any Office, Legislative, Executive, or Judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case.

No officer of government to act until he has taken it.

III. THE oath of a Governor:

Oath of a Governor.

I, , *elected Governor of* Virginia, *by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said Office diligently and faithfully according to Law, without favour, affection, or partiality; that I will, to the utmost of my power, protect the Citizens of the Commonwealth in the secure enjoyment of all their Rights, Franchises, and Privileges, and will constantly endeavour that the Laws and Ordinances of the Commonwealth be duly observed, and that Law and Justice, in mercy, be executed in all judgments; and, lastly, that I will peaceably and quietly resign the Government to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by Law and the Constitution.* So help me GOD.

IV. THE oath of a Privy Councillor:

Of a Privy Councillor.

I, , *elected one of the Privy Council of* Virginia, *by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection, or partiality, and that I will keep secret such proceedings and orders of the Privy Council, as the Board shall direct to be concealed, unless the same be called for by either House of General Assembly.* So help me GOD.

V. THE oath of one not specially directed to take any other:

Of one, not specially directed to take any other.

I, , *do solemnly promise and swear, that I will faithfully, impartially and justly, perform the duty of my office of* , *according to the best of my skill and judgment.* So help me GOD.

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By whom to be administered.

VI. THE said oaths to be taken by a Member or Officer of either House of General Assembly, shall be administered by any Member of the Privy Council, and the taking thereof shall be certified to the Clerk of such House; and the said oaths to be taken by any other person, if it be not otherwise directed, shall be administered in some Court of Record, or by any Judge or Justice thereof, and the taking thereof shall be recorded in the said Court.

Oath of a Counsel or Attorney.

VII. EVERY Counsel or Attorney before he be permitted to practice in any Court within this Commonwealth, shall take the following oath before such Court:

I DO swear that I will honestly demean myself in the practice of a Counsel, Attorney, or Proctor, and will execute my office to the best of my knowledge and ability.

How persons, refusing from religious scruples to take oaths, may be qualified.

VIII. ANY Person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the Church or religious Society he professeth himself to be a member of, or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an Office, or perform any other act, to the sanction whereof an oath is, or shall be required by law, and shall be subject to the same rules, derive the same advantages, or incur the same penalties or forfeitures, as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words "upon their oath," or "sworn," may be left out, and instead of them, "in solemn form," or "charged," which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

Repealing clause.

IX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

X. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LVIII.

An Act for ascertaining the Salaries to the Officers of Civil Government.

[Passed the 22d of November, 1792.]

Salaries payable quarterly to the officers of civil government.

I. BE *it enacted*, That the several Officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The Governor or Chief Magistrate, the sum of two thousand six hundred and sixty-seven dollars. The Members of the Privy Council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The Judges of the Court of Appeals, the Judge of the High Court of Chancery, and the Judges of the General Court, each, the sum of one thousand dollars. The Attorney-General, the sum of six hundred and sixty-seven dollars, *per annum*, and to each of his Deputies in the District Courts, seventy-five dollars *per annum*. The Auditor of Public Accounts, the sum of one thousand dollars *per annum*. The Speaker of the Senate, the sum of three dollars and thirty-four cents *per* day, during each Session of Assembly, including his daily pay. The Speaker of the House of Delegates, the sum of six dollars and sixty-seven cents *per* day, in like manner. The Clerk of the General Court, for his ex-officio services, the sum of one hundred dollars *per annum*. The Register of the Land-Office and his Clerks, the sum of one thousand three hundred and thirty-three dollars *per annum*. The Treasurer, the sum of sixteen hundred and sixty-seven dollars *per annnm*. The first Clerk of the Council, Treasury, and Auditor, the sum of five hundred dollars *per annum*, each, and each of the other Clerks of the Council, Treasury, and Auditor, the sum of three hundred and thirty-four dollars *per annum*. And the Keeper of the Public Jail, the sum of eighty-four dollars *per annum*. All those several sums shall be paid in Specie, and the Auditor is hereby authorised to audit the same, and issue his warrants upon the Treasury accordingly.

Repealing clause

II. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Provided always, that nothing in this Act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this Act. Proviso.

III. THIS Act shall commence in force, from and after the first day of *January* next. Commencement of this act.

CHAP. LXIX.

An Act to punish Bribery and Extortion.

[Passed the 19th of October, 1792.]

I. BE *it enacted by the General Assembly*, That no Treasurer, Keeper of any Public Seal, Councillor of State, Counsel for the Commonwealth, Judge, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any other Officer of the Commonwealth, shall in time to come, take in any form, any manner of brokeage or reward for doing his office, other than is, or shall be allowed by law. And he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a Jury, and shall be discharged from his office for ever. And he who will sue in the said matter, shall have suit as well for the Commonwealth as for himself, and the third part of the amercement. Penalties on any officer of government taking any thing for doing his office except what is allowed by law.

II. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give to any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any County, City, or Borough, or for any District, shall be expelled, and be disabled from being elected a Member to either House of the General Assembly, during the term of three years. Members of General Assembly bribing electors to be expelled; and ineligible for three years.

III. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a Representative of this Commonwealth in Congress, shall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with costs, by action of debt, to the use of any person who will sue for the same. Penalty for bribing electors of Representatives in Congress.

IV. ALL and every Act and Acts, clauses and part of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, That any act of bribery or extortion committed or done before the commencement of this Act, may be prosecuted in the same manner as if this Act had never been made. Repealing clause. Proviso.

V. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. LX.

An Act against buying and selling of Offices.

[Passed the 19th of October, 1792.]

I. BE *it declared and enacted by the General Assembly*, That if any person or persons shall bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promise, agreement, covenant, bond or any assurance to receive or have any money, fee or reward, or other profit directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the public Revenue, or which shall concern or touch any clerkship in a Court of Record, all and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such of- Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office.

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fice, and ſhall be adjudged a diſabled perſon in Law, to all intents and purpoſes, to have, occupy, or enjoy the office in virtue of which he holds, or ſhall hold the right of appointing or voting for the appointment to ſuch office, and ſhall moreover be amerced and impriſoned at the diſcretion of a Jury; and if a Member of either Houſe of Aſſembly, he ſhall moreover be expelled from the ſame, and forever after diſabled from being elected a Member of the General Aſſembly.

For giving or agreeing to give any thing for any ſuch office.

II. EVERY perſon who ſhall directly or indirectly give or pay any money, fee or reward, or ſhall make any promiſe, agreement, bond or aſſurance to give any money, fee or reward whatſoever for any vote or appointment to any office, which concerns the adminiſtration of the Executive Government, or the adminiſtration or execution of juſtice, or the receipt or payment of the Public Revenue, or for the clerkſhip in any Court of Record, or for the deputation or deputations to any of the ſaid offices, ſhall be utterly incapable of ſerving in any ſuch office.

Contracts for thoſe purpoſes void.

III. EVERY ſuch bargain, ſale, promiſe, bond, covenant, agreement and aſſurance, as before ſpecified, ſhall be utterly void and of no effect.

Not to extend to appointments of deputy clerks or ſheriffs.

IV. *PROVIDED always*, That nothing in this Act contained, ſhall be ſo conſtrued as to prohibit the appointment, qualification, and acting of any Deputy Clerk, or Deputy Sheriff, who ſhall be employed to aſſiſt their principals in the execution of their reſpective offices.

Official acts of perſons convicted under this act, performed before removal, from office, valid.

V. *PROVIDED always*, That if any perſon or perſons ſhall be convicted of having offended againſt this Act, yet all judgments given, and all other Acts executed or done by any ſuch perſon or perſons ſo offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the perſon ſo convicted, after the offence ſo by ſuch perſon committed or done, and before ſuch perſon ſo offending for the ſame offence be removed from the exerciſe, adminiſtration, and occupation of the ſaid office or deputation, ſhall be good and ſufficient in Law to all intents, conſtructions, and purpoſes, in ſuch like manner and form as the ſame ſhould or ought to have remained and been, if this Act had never been made.

Repealing clauſe.

Proviſo.

VI. ALL and every Statute and Statutes, Act and Acts, Clauſe or Clauſes thereof, within the purview of this Act, (except as herein after provided) ſhall be, and are hereby repealed. *Provided always*, That nothing in this Act contained ſhall be conſtrued to repeal the ſaid Statutes or Acts, for ſo much of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act.

Commencement of this act.

VII. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

C H A P. LXI.

An Act for arranging the Counties in Diſtricts for electing Senators.

[Paſſed the 12th of December, 1792.]

Arrangement of the counties into ſenatorial diſtricts.

I. FOR the regular election of Senators to the General Aſſembly, *Be it enacted*, That the Counties of *Accomack* and *Northampton*, ſhall be one Diſtrict; the Counties of *Norfolk*, *Princeſs-Anne*, and *Nanſemond*, one other Diſtrict; the Counties of *Surry*, *Iſle of Wight*, and *Prince-George*, one other Diſtrict; the Counties of *Suſſex*, *Dinwiddie*, and *Southampton*, one other Diſtrict; the Counties of *Brunſwick*, *Lunenburg*, *Mecklenburg*, and *Greenſville*, one other Diſtrict; the Counties of *Charlotte*, *Halifax*, and *Prince Edward*, one other Diſtrict; the Counties of *Amelia*, *Cheſterfield*, *Cumberland*, *Nottoway*, and *Powhatan*, one other Diſtrict; the Counties of *Buckingham*, *Amherſt*, *Albemarle*, and *Fluvanna*, one other Diſtrict; the Counties of *Franklin*, *Pittſylvania*, *Campbell*, *Bedford*, *Henry*, and *Patrick*, one other Diſtrict; the Counties of *Wythe*, *Botetourt*, *Waſhington*, *Montgomery*, *Ruſſell*, *Greenbrier*, and *Kanawha*, one other Diſtrict; the Counties of *Elizabeth City*, *Warwick*, and *York*, one other Diſtrict; the Counties of *Charles City*, *James City*, and *New-Kent*, one other Diſtrict; the Counties of *Goochland*, *Henrico*, and *Louiſa*, one other Diſtrict; the Counties of *Hanover* and *Caroline*, one other Diſtrict; the Counties of *Auguſta*,

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Rockingham, *Rockbridge*, *Shenandoah*, *Pendleton*, and *Bath*, one other District; the Counties of *Essex*, *King-William*, and *King & Queen*, one other District; the Counties of *Gloucester*, *Middlesex*, and *Mathews*, one other District; the Counties of *Lancaster*, *Richmond*, and *Northumberland*, one other District; the Counties of *King-George*, *Westmoreland*, and *Stafford*, one other District; the Counties of *Spotsylvania*, *Orange*, and *Culpeper*, one other District; the Counties of *Fairfax* and *Prince-William*, one other District; the Counties of *Loudoun* and *Fauquier*, one other District; the Counties of *Frederick*, *Berkeley*, *Hampshire* and *Hardy*, one other District; the Counties of *Monongalia*, *Harrison*, *Ohio*, and *Randolph*, one other District.

II. ALL Ordinances of Convention, or Acts of Assembly, within the purview of this Act, shall be, and the same are hereby repealed. Repealing clause.

III. THIS Act shall commence in force, from and after the passing thereof. Commencement of this act.

CHAP. LXII.

An Act for reducing into one, the several Acts and Parts of Acts respecting the Powers and Duties of the Executive.

[Passed the 16th of November, 1792.]

Powers vested in the Executive for suppressing combinations for dismembering the state.

I. BE *it enacted*, That if any combination for dismembering this State, or establishing in any part of it a separate Government, should become so powerful as to obstruct the due execution of the Laws of this Commonwealth, in the ordinary course of proceeding within any County or Counties thereof, it shall be lawful for the Governor, with advice of Council, to call out the Militia of the State to suppress such Combination, and to employ them in the same manner as he may do by Law, in cases of Invasion or Insurrection.

For apprehending suspicious subjects of a foreign state, in case of war with such state.

II. IT shall and may be lawful for the Governor, with the advice of the Council of State, to apprehend and secure, or cause to be apprehended, and secured, or compelled to depart this Commonwealth, all suspicious persons, being the subjects of any foreign Power or State, who shall have made a declaration of war, or actually commenced hostilities against the said States, or from whom the President of the United States shall apprehend hostile designs against the said States; provided information thereof shall have been previously received by the Executive from him. And in all such cases, the Governor, with the advice of the Council of State, shall, and he is hereby empowered, to send for the person and papers of any Foreigner within this State, in order to obtain such information as he may judge necessary.

Their persons and papers may be sent for & secured.

Sheriffs and Jailors to obey the warrants of the Governor respecting them.

III. ALL Sheriffs and Jailors shall receive such suspicious persons, whom by Warrant from the Governor they shall be commanded to receive, and them in their prisons or custody to detain, or transport out of the Commonwealth, as by such Warrant they may be commanded. And all others, the good Citizens of this Commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person, when commanded by Warrant or Proclamation of the Governor, or required by the Sheriff or Jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this Act in evidence. Saving always to the Merchants of any Foreign State, betwixt whom and the United States of *America*, war shall have arisen, and to their Families, Agents, and Servants, found in this Commonwealth at the beginning of the war, the privileges allowed by Law.

Saving to foreign merchants their legal privileges.

Who shall officiate as Lieutenant Governor in case of the inability of the Governor & President of the Council.

IV. IF the Governor and President of the Privy Council shall die, or otherwise become unable to perform his duty, in the recess of the General Assembly, the Privy Councillor, whose name stands next in the list of their appointments, shall officiate as Lieutenant-Governor, until the vacancy be supplied, or the disability cease.

When the Council may

V. AND in the absence of the Governor, such intended absence having been previously notified to them by him, and entered on their Journals, or in the like absence of the Presi-

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Act without the Governor or President.

dent, and upon the like notification, if any business to be transacted at the Council Board necessarily require dispatch before he can attend it, the Council may proceed without him; and in either case the Act shall be as valid as if he had been present. The Governor and Council shall have power to appoint from time to time as they shall be wanting, a drawing Clerk, a copying Clerk, and a Clerk of foreign correspondence, who shall each of them take an oath, to be administered by any Member of the Board, to keep secret all such matters as they shall direct them to keep secret; which Clerks shall be removed at their will.

Clerks of the Council how to be appointed, qualified, and removed.

Guards for public service, how to be procured.

VI. IT shall and may be lawful for the Governor, with the advice of Council, to cause as many men (not exceeding twenty-five) with proper Officers to be enlisted as guards for public service, as he the said Governor, with advice of Council, may deem necessary, and may retain the same in service so long as the public exigencies may require.

When the Executive may appoint justices of the peace without a recommendation.

VII. IF it shall happen that there is not a sufficient number of Justices for holding a Court in any County, either by deaths, refusal to act, or removal out of the County, the Governor for the time being, with advice of Council, shall have full power to issue a Commission or Commissions of the Peace for the appointment of any number of Magistrates in such County, so circumstanced, as shall be judged necessary for carrying on the business of the same.

The Executive to send the laws to the clerks of the County Courts.

VIII. IT shall be the duty of the Executive to send copies of the Laws of this Commonwealth by express, or otherwise, as they shall think best, to the Clerk of every County and Corporation Court within the same, for the use of each Magistrate, Clerk, States Attorney, and Sheriff, in the County or Corporation, as soon as the said Laws are printed; the expence whereof shall be defrayed out of the Contingent Fund.

Fines assessed by a jury not to be remitted by the Executive.

IX. IT shall not hereafter be lawful for the Executive to remit any fine or amercement assessed by a Jury.

X. ALL and every Act and Acts, clause and clauses of Acts, within the purview of this Act, shall be, and are hereby repealed.

Commencement of this act.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXIII.

An Act for reducing into one Act, the several Acts concerning the Court of Appeals, and special Court of Appeals.

[Passed the 26th of October, 1792.]

Court of Appeals to consist of five judges.

Any three to constitute a court.

Where to be holden.

Terms.

I. BE *it enacted by the General Assembly*, That the Court of Appeals shall consist of five Judges, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth. Any three of the said Judges shall constitute a Court. The said Court shall be holden at the Capitol, in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the tenth day of *April*, and the tenth day of *October*, or when that shall happen to be *Sunday*, on the succeeding day, and shall sit each time, until the business depending before them shall be dispatched. Every Judge before he exercises his office, shall in open Court give assurance of fidelity to the Commonwealth, and take this oath:---

Oaths to be taken by the judges.

YOU shall swear that you will well and truly serve this Commonwealth in the office of a Judge of the Court of Appeals, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself or by any other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person,

nor for any other cause; and if any letter or request come to you contrary to the Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding. And finally in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor or affection. So help you GOD.

II. THE said Court shall have jurisdiction not only in the cases provided for by the Constitution of this Commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trial shall be by Juries according to the course of Law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of *error*, or *supersedeas*, to reverse decrees of the High Court of Chancery, or judgments of the General Court, or District Courts of this Commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to one hundred dollars, if the judgment sought to be reversed, shall be rendered in the District Courts, or one hundred and fifty dollars, if in the General Court or High Court of Chancery, or be a freehold or franchise; and in all other cases therein depending at the commencement of this Act.

Jurisdiction of the court.

III. IF a sufficient number of Judges to constitute a Court shall not attend on the first day of any Term of the Court of Appeals, it shall be lawful for any one Judge thereof to adjourn the Court from day to day, for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the Court shall stand adjourned, and all suits depending therein continued to the next Court. And if during any session after a Court shall have been constituted, three Judges shall not attend to make a Court, there shall be no discontinuance of the Term, but the Court shall stand adjourned from day to day, till a sufficient number shall attend; provided that shall happen in four days: and if it does not, then the Term and suits shall stand adjourned to the next Court, as before directed.

Regulations respecting the adjournment of the court when the judges do not attend.

IV. ALTHOUGH one or more of the Judges of the Court of Appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other Judges, if there be a number of Judges not so interested sufficient to constitute a Court.

The court to determine causes in which one or more of the judges may be interested if there remains a sufficient number to make a court.

V. IF on an appeal from the High Court of Chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the Judges of the Court of Appeals be interested, then in the former case the remaining Judges of the Court of Appeals not so interested, and as many of the Judges of the General Court, as will make the number at least five, and in the latter case so many of the Judges of the General Court not so interested, as will make the number five at least, shall constitute a Special Court for the trial of such appeal or question. If on an appeal, writ of *error*, or *supersedeas*, to or from any judgment or order made in the General Court, or any question concerning the same, or any process to be directed thereto, a majority or all of the Judges of the Court of Appeals be interested therein, then in the former case the remaining Judges of the Court of Appeals, not being so interested, together with the Judge of the High Court of Chancery, and as many of the Judges of the General Court, not being so interested, as will make the number five at least, shall constitute a like Court for the purpose aforesaid. If on an appeal, writ of *error*, or *supersedeas*, to or from any judgment or order made in a District Court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all the Judges of the Court of Appeals be interested, then in the former case, the remaining Judges of the Court of Appeals not being interested, the Judge of the High Court of Chancery not being so interested, and as many of the Judges of the General Court, who are not so interested, and did not render the judgment, or direct the order, as will make the number five at least, shall constitute a like Court for the purpose aforesaid; and in the latter case, no Judge of the Court of Appeals shall sit; but any five of the Judges last mentioned, and not disqualified as aforesaid, shall constitute a Court; *Provided always*, that in case of the sickness or other disability of the Judge of the High Court of Chancery to attend any Special Court of Appeals, such Court may, in any case, be constituted by other Judges. *And provided also*, that when any Special Court shall be appointed for the trial of any cause depending in the Court of Appeals, because a majority of the Judges of that Court are interested or otherwise disqualified to sit therein, in

Special Courts of Appeals to be held for the trial of suits in which a majority of the judges of the Court of Appeals are interested.

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caſe of the ſickneſs or diſability of the remaining Judge or Judges of the ſaid Court not ſo diſqualified, or either of them, the remaining Judges appointed by law to hold ſuch Court, or any five of them attending may proceed to a hearing and deciſion of the cauſe, in the ſame manner as if all the Judges of the Court of Appeals, not ſo diſqualified, had been preſent.

When and where.

VI. WHENSOEVER a majority or all the Judges of the Court of Appeals ſhall be intereſted in any of the caſes above-mentioned, the ſame ſhall be entered of Record in the ſaid Court, and the Clerk thereof ſhall thereupon iſſue a ſummons to the Judge of the High Court of Chancery, and Judges of the General Court, requiring them, if not diſqualified as aforeſaid, to attend at the Capitol, in the City of Richmond, or in caſe of adjournment of the Court of Appeals to any other place, at ſuch other place on the twentieth day of *June* or *November*, then next following, and ſtating the names of the parties, and the Court whoſe deciſion is to be examined. A Court conſtituted in any of the caſes above deſcribed, ſhall hear, determine, and finally decide all ſuits, proceſs, matters and things ſubmitted to their cognizance and juriſdiction aforeſaid.

To be attended by the clerk, and other officers of the Court of Appeals, and to have the ſame power of adjournment, &c.

VII. THE Clerk of the Court of Appeals for the time being, ſhall attend all ſuch Special Courts with the Records in the caſes to ſuch Special Courts committed, and enter the proceedings of all ſuch Special Courts in the order Book of the Court of Appeals, and the ſame ſhall be ſigned by the preſiding Judge of ſuch Special Court, and be certified to the Inferior Court; and the judgment or decree, ſentence or order of ſuch Court, ſhall be carried into execution in the ſame manner as if the ſame had been determined in the Court of Appeals. Such Special Courts ſhall be attended by the like Officers with the Court of Appeals, who ſhall receive the like compenſation as they now do in the ſaid Court; and ſuch Special Courts may adjourn and do all and every act as a Court during their Seſſion, which the Court of Appeals may by Law do.

Cauſes in the Special Courts when to be reſumed by the Court of Appeals.

VIII. *PROVIDED always*, That where any cauſe ſhall be pending in any ſuch Special Court, and the ſame ſhall not be determined before there ſhall be a ſufficient number of the Judges of the Court of Appeals qualified to make a Court for deciding the ſame, ſuch cauſe ſhall be reſumed by the Court of Appeals, and be determined there, as if ſuch cauſe had never been committed to a Special Court.

Oaths to be adminiſtered to the judges attending ſuch Special Courts

IX. EACH Judge attending in conſequence of ſuch ſummons, ſhall in open Court take an oath to do his duty as a Judge of Appeals, in the caſe or caſes on which he is ſummoned, impartially and truly, without favour or affection; which oath ſhall be adminiſtered by the eldeſt ſitting Judge, and ſhall then be adminiſtered to him, if he ſhall not before have qualified as a Judge of the Court of Appeals by one other of the Judges.

Allowances to them for attendance and travelling expences.

X. EACH Judge attending in conſequence of ſuch ſummons, and not diſqualified as aforeſaid, ſhall be allowed for his attendance three dollars and thirty-three cents *per* day, and for travelling to and from the place of Seſſion, two dollars for every twenty miles: And the Judges of the Court of Appeals, attending ſuch Special Court, and not diſqualified to ſit therein, ſhall be paid the ſame allowance.

Court of Appeals to appoint their officers; to be attended by the ſheriff of the county in which the court is holden.

XI. THE Court of Appeals ſhall appoint a Clerk, Tipſtaff, and Cryer, the firſt removable for miſbehaviour, in the manner directed by the Conſtitution, the two others at pleaſure; and ſhall be attended by the Sheriff of the County, in which they ſit, as their Officer.

Judges may appoint a clerk in vacation.

XII. IF a vacancy ſhall happen in the office of Clerk out of the terms of the ſaid Court, it ſhall be lawful for a majority of the Judges, by commiſſion under their hands and ſeals, to appoint a Clerk to fill ſuch vacancy.

Duty of the clerk. Rule in docketing cauſes.

XIII. THE Clerk of the ſaid Court ſhall carefully preſerve the tranſcripts of Records certified to his Court with the Bonds for proſecution, and all papers relative to them, and other ſuits depending therein, docketing them in the order he ſhall receive them, that they may be heard in the ſame courſe, unleſs the Court for good cauſe to them ſhewn, direct any to be heard out of its turn, and ſhall faithfully record their proceedings and deciſions, and certify the ſame to the proper Courts.

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XIV. APPEALS, writs of *error*, and *supersedeas*, may be granted, heard and determined by the Court of Appeals, to and from any final decree or judgment of the High Court of Chancery, General Court and District Courts, in the same manner, and on the same principles as appeals, writs of *error* and *supersedeas*, are to be granted, heard, and determined by the High Court of Chancery, and District Courts, to and from any final decree or judgment of a County, City, or Borough Court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the Court of Appeals, as in those Courts respectively; and the Clerk of the said Court shall issue the like process for summoning the adverse party, removing the Records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the High Court of Chancery, and the District Courts, respectively. Jurisdiction of the court with respect to appeals, writs of error, supersedeas, &c.

XV. WRITS of *supersedeas* may be granted by any Judge of the Court of Appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *supersedeas* to be granted by a Judge of the District Courts, to a judgment of the County Court. Writs of supersedeas may be granted in vacation.

XVI. WHERE one person or several obtain an appeal, writ of *error*, or *supersedeas*, bond and security given by any party, or by any responsible person, shall be valid and sufficient. By whom bond and security may be given in appeals, &c.

XVII. WHENSOEVER any appeal, writ of *error*, or *supersedeas*, shall be granted, and a transcript of the Record be not sent to the Court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of error, or *supersedeas*, shall be dismissed, unless good cause be shewn to the contrary. When records in appeals, &c. are to be filed.

XVIII. AFTER the dismission of an appeal, writ of *error*, or *supersedeas*, in the Court of Appeals, no appeal, writ of *error*, nor *supersedeas* shall be allowed. After dismission of appeals, &c. none others to be allowed.

XIX. A CLEAR and concise state of the case of each party in an appeal, writ of *error*, or *supersedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expence whereof shall be taxed in the bill of costs, shall be delivered to every Judge time enough before the hearing, for his consideration; but the Court if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the Court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the Court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly. Cases to be stated and printed for the judges. Judgments of the court how to be rendered.

XX. IT shall not be lawful for the High Court of Chancery, or General Court, to remove before the Court of Appeals, by adjournment, any question, matter or thing, whatsoever. No question to be removed by adjournment to the Court of Appeals.

XXI. THE Judges of the Court of Appeals shall direct the form of writs from time to time in such manner as shall seem advisable. The judges to direct the forms of writs.

XXII. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed. Former acts repealed.

XXIII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. LXIII.

An Act reducing into one, the several Acts concerning the High Court of Chancery.

[Passed the 29th of November, 1792.]

I. BE *it enacted by the General Assembly*, That the High Court of Chancery shall consist of one Judge, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth. High Court of Chancery to consist of one judge; how chosen and commissioned.

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Where to be held.

II. THE ſaid Court ſhall be holden at the Capitol in the City of *Richmond*, or at ſuch other place as ſhall be appointed by the General Aſſembly, or in their receſs by the Governor, with the advice of the Council of State, on any ſuch emergency, as will make the adjournment lawful.

Terms.

III. THE ſaid Court ſhall be holden three times in every year, namely, on the firſt day of *March*, on the twelfth day of *May*, and on the 10th day of *September*; but if either of thoſe days happen on a *Sunday*, on the day following. The Seſſion in *March* ſhall continue eighteen, and the Seſſions in *May* and *September* twenty-four juridical days ſucceſſively, unleſs the buſineſs depending before the ſaid Court ſhall be ſooner diſpatched.

The court to be adjourned from day to day for ſix days when the judge does not attend.

IV. IF the Judge ſhall not attend on the firſt day of the Term, ſuch Court ſhall ſtand adjourned from day to day until a Court be made, if that ſhall happen before four o'clock in the afternoon of the ſixth day.

Cauſes to be continued to the next term when the court does not ſit, or does not finiſh the buſineſs.

V. IF a Court ſhall not ſit in any Term, or ſhall not continue to ſit the whole Term, or before the end of the Term ſhall not have heard and determined all matters ready for its deciſion, all ſuits, matters and things depending in Court and undecided, ſhall ſtand continued to the next ſucceding Term. If from any cauſe the Court ſhall not ſit on any day of the Term after it ſhall have been opened, there ſhall be no diſcontinuance; but ſo ſoon as the cauſe is removed, the Court ſhall proceed to buſineſs until the end of the Term, if the buſineſs depending before it be not ſooner diſpatched.

Oaths to be taken by the judge.

VI. EVERY perſon ſo commiſſioned before he enters upon the duties of his office, ſhall take and ſubſcribe the oath of fidelity to this Commonwealth, and take the following oath:

YOU ſhall ſwear that well and truly you will ſerve this Commonwealth in the office of Judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and ſmall, high and low, rich and poor, according to equity and good conſcience, and the Laws and uſages of Virginia, *without reſpect of perſons. You ſhall not take by yourſelf, or by any other, any gift, fee, or reward, of gold, ſilver, or any other thing, directly or indirectly, of any perſon or perſons, great or ſmall, for any matter done or to be done by virtue of your office, except ſuch fees or ſalary as ſhall be by Law appointed. You ſhall not maintain by yourſelf, or by any other, privily or openly, any plea or quarrel depending in the Courts of this Commonwealth. You ſhall not delay any perſon of right for the letters or requeſt of any perſon, nor for any other cauſe; and if any letter or requeſt come to you contrary to Law, you ſhall nothing do for ſuch letter or requeſt, but you ſhall proceed to do the Law, any ſuch letter or requeſt notwithſtanding; and finally, in all things belonging to your ſaid office, during your continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, do equal and impartial juſtice, without fraud, favor, affection or partiality.* So help you GOD.

Such oath ſhall be taken before the Executive, and a certificate recorded in the ſaid Court.

Penalty for acting without taking the oaths.

VII. IF any perſon ſhall preſume to execute the ſaid office, without having taken the ſaid oaths, he ſhall forfeit and pay the ſum of fifteen hundred dollars for his ſaid offence.

Juriſdiction of the court.

VIII. THE ſaid Court ſhall have general juriſdiction over all perſons, and in all cauſes in Chancery, now pending therein, or which may hereafter be brought before it, whether by original proceſs, appeal from any Inferior Court, *certiorari*, or other legal means, and alſo in ſuch other caſes, as by any ſtatute, are, or ſhall be made cognizable therein: But no perſon ſhall commence an original ſuit in any matter of leſs value than thirty-three dollars and thirty-three cents, except it be againſt the Juſtices of any County or other Inferior Court, on pain of having the ſame diſmiſſed with coſts.

In what caſes to be conſidered as always open.

IX. THE ſaid Court ſhall be conſidered as always open, ſo as to grant injunctions, writs of *ne exeat*, *certiorari*, and other proceſs heretofore uſually granted in vacation.

Officers to be appointed.

X. THE ſaid Court ſhall have power to appoint a Clerk, who ſhall hold his office during good behaviour, and be entitled to ſuch fees or ſalary as the Legiſlature may appoint, as alſo a Serjeant at Arms: And in caſe of a vacancy in the receſs of the ſaid Court, the ſaid Judge may make the like appointments under his hand and ſeal, during a vacation; and ſuch ſucceeding Clerk or Serjeant, having, in any Court of Record, taken the oaths required by Law, ſhall exerciſe the ſame power, perform the ſame duties, and be entitled to the ſame fees and profits, as if he had been appointed in Term time.

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XI. IT ſhall be lawful for the High Court of Chancery to ſend any matter of Law to the General Court, for their opinion to be certified thereupon.

The court may require the opinion of the General Court in matters of law.

XII. ALTHOUGH any of the Defendants, whether debtors or others, in any ſuit inſtituted in the ſaid Court, ſhould be abſent from the Commonwealth, the Court may nevertheleſs proceed to a hearing and decree therein, as in the caſe of abſent debtors having effects within the Commonwealth.

May proceed againſt other abſent defendants as againſt abſent debtors.

XIII. THE ſaid Court in its diſcretion, may direct an iſſue to be tried, whenever it ſhall be judged neceſſary, either in that Court, or in any other Court whatſoever, as juſtice or convenience to the parties may require, and in all other caſes the mode of trial ſhall be the ſame as hath been heretofore uſed and practiſed in the Courts of Chancery in *Virginia*.

May direct iſſues to be tried. Mode of trial in all other caſes.

XIV. IF a majority of the Judges of the General Court be intereſted in any ſuit, which in the caſe of any other perſon would have been proper for the Juriſdiction of ſuch Court, it may be lawful to inſtitute ſuch ſuit in the High Court of Chancery, where proceedings ſhall be had conformably to the rules of the General Court, and proceſs ſhall be returnable as the High Court of Chancery ſhall direct; and thereafter an appeal may be entered to the Court of Appeals.

Suits properly cognizable in the General Court may be tried in the Court of Chancery, when a majority of the judges of the former are intereſted.

XV. IT ſhall be lawful for the ſaid Court to arrange the buſineſs thereof, in the moſt convenient and equitable manner.

XVI. ANY party thinking himſelf aggrieved by a decree of the Court of a County, City, or Borough, in Chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from ſuch decree at any time within one month after the decree pronounced, lodging for that purpoſe with the Clerk of the High Court of Chancery, a copy of the proceedings in the ſuit, and a petition ſuggeſting error in the decree, ſigned by ſome Counſel attending the High Court of Chancery, and alſo lodging with the petition a bond executed by the appellant or his agent, and a ſurety or ſureties with the like condition as is annexed to other appeal bonds, and affidavits, or ſolemn affirmations, verifying the ſufficiency of the ſureties; and the Clerk ſhall thereupon iſſue a ſummons againſt the appellee, requiring him to appear and anſwer the ſaid petition and appeal, and ſhall alſo iſſue a *ſuperſedeas*, if neceſſary, to enjoin from proceeding in execution of the decree; and the Court ſhall and may hear and determine the appeal in the ſame manner as if the appeal had been entered at the time the decree was pronounced.

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

XVII. *PROVIDED always*, That whenever an appeal is prayed for from any Inferior Court to the ſaid High Court of Chancery, or bond is given for the removal of any ſuit in Chancery, in any manner whatſoever, it ſhall be ſufficient in either caſe, if the ſaid bond or bonds ſhall be executed by good and ſufficient ſecurities, although the appellant or party ſhall not execute the ſaid bond or bonds.

By whom bond and ſecurity may be given in appeals, &c.

XVIII. THE ſaid Court, or the Judge thereof in vacation, ſhall have power, for good cauſe ſhewn, to allow a petition of appeal, and if neceſſary, order a *ſuperſedeas* to ſtop the execution of any decree pronounced by an Inferior Court, at any time within three years after pronouncing the ſame; the party praying ſuch appeal and *ſuperſedeas*, complying with the terms which the ſaid Court or Judge ſhall annex to ſuch order.

How appeals may be obtained from decrees in county courts where not entered when the decrees were pronounced.

XIX. ALL original proceſs to bring any perſon to anſwer any bill, petition or information in the ſaid Court, and all ſubſequent proceſs thereupon, ſhall be iſſued and ſigned by the Clerk in the name of the Commonwealth, and bear teſte by the Judge of the ſaid Court; ſhall be returnable to the firſt or ſeventeenth days of the term, which ſhall be next after the ſuing out ſuch proceſs, and may be executed at any time before the return day thereof. And if any proceſs ſhall be executed ſo late that the Sheriff hath not reaſonable time to return the ſame before the day of appearance, and thereupon any ſubſequent proceſs ſhall be awarded, the Sheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, on which there ſhall be the ſame proceedings as if it had been returned in due time.

Proceſs, how to be iſſued.

Return days.

XX. ALL appeals from decrees in Chancery, obtained in any Inferior Court, ſhall be made to the third day of the next term.

Appeals to be made to the third day of the next term.

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Rules to be observed in the pleadings.

XXI. IN all ſuits in the ſaid Court, the following rules and methods ſhall be obſerved: The complainant ſhall file his bill within one calendar month after the day of appearance, or may be ruled on the requiſition of the defendant to file ſuch bill, and if he fails to do ſo within one calendar month after ſuch rule, the ſuit may diſmiſſed with coſts; and if he ſhall fail to file the ſame within three months after the *ſubpœna* ſhall be returned executed, the ſuit ſhall ſtand *ipſo facto* diſmiſſed with coſts.

XXII. AND upon the complainant's diſmiſſing his bill, or the defendant's diſmiſſing the ſame for want of proſecution, the complainant ſhall pay coſts, to be taxed by the Clerk of the Court; for which coſts, an attachment, or other proceſs of contempt, or an execution may iſſue, at the election of the defendant, returnable on any return day.

XXIII. THE complainant may amend his bill before the defendant or his Attorney hath taken out a copy thereof, or in a ſmall matter afterwards, without paying coſts; but if he amend in a material point after ſuch copy obtained, he ſhall pay the defendant all coſts occaſioned thereby.

XXIV. IF the defendant ſhall not appear on the day of appearance, (which in all caſes ſhall be the ſecond day after the Term to which the *ſubpœna* is returnable) an attachment ſhall be awarded and iſſued againſt him, returnable to the next Term, which being returned executed, if the defendant doth not appear, or being brought into Court upon any ſuch proceſs, ſhall obſtinately refuſe to anſwer, the complainant's bill ſhall be taken as confeſſed, and the matter thereof decreed accordingly.

XXV. THE defendant within three calendar months after his appearance and bill filed, ſhall put in his anſwer to be filed with the Clerk in the office, at the expiration of which time, if no anſwer be filed, the Clerk, upon requeſt, ſhall iſſue an attachment, returnable to the next Court; and if no anſwer be filed upon the return of ſuch attachment executed, or a copy thereof left at the defendant's uſual place of abode, or laſt place of reſidence, the complainant's bill ſhall be taken as confeſſed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and ſuch ſubſequent proceſs of contempt may iſſue as was heretofore iſſuable out of the General Court ſitting in Chancery in like caſes.

XXVI. NO proceſs of contempt ſhall iſſue unleſs the *ſubpœna* be returned ſerved by a ſworn officer, or affidavit be made of the ſervice thereof.

XXVII. EVERY defendant may ſwear to his anſwer before any Judge of this or of the General Court, or any Juſtice of the Peace.

XXVIII. IF the defendant does not file his anſwer within three months after the plaintiff ſhall have filed his bill, having alſo been ſerved with the *ſubpœna* at leaſt three months before the ſaid time for filing his anſwer, the plaintiff may have a general commiſſion to take depoſitions, or he may move the Court to bring in the defendant to anſwer interrogatories, at his election, and proceed on to hearing in the two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, That the Court for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing.

XXIX. AFTER anſwer filed, and no plea in abatement to the juriſdiction of the Court, no exception for want of juriſdiction ſhall ever afterwards be made, nor ſhall the High Court of Chancery, or any other Court, ever thereafter delay or refuſe juſtice, or reverſe the proceedings for want of juriſdiction, except in caſes of controverſy reſpecting lands lying without the juriſdiction of ſuch Court, and alſo of infants and *femes covert*.

XXX. WHEN a croſs bill ſhall be exhibited, the defendant or defendants to the firſt bill ſhall anſwer thereto, before the defendant or defendants to the croſs bill ſhall be compelled to anſwer ſuch croſs bill.

XXXI. THE complainant ſhall reply, or file exceptions within two calendar months after the anſwer ſhall have been put in. If he fails ſo to do, the defendant may give a rule to reply with the Clerk of the Court, which being expired, and no replications or excep-

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tions filed, the suit shall be dismissed with costs; but the Court may order the same to be retained if they see cause, on payment of costs.

XXXII. IF the complainant's Attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the Clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in Court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs.

XXXIII. IF upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the Court.

XXXIV. UPON a second answer adjudged insufficient, costs shall be doubled.

XXXV. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

XXXVI. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

XXXVII. RULES to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the Clerk in his office, and shall be entered in a rule book for the information of all parties, attornies, or solicitors, concerned therein.

XXXVIII. NO defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing.

XXXIX. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of Court, upon motion.

XL. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the Clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in Chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common Law.

XLI. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

XLII. IF the complainant shall not proceed to reply to, or set for hearing as before mentioned, any plea or demurrer before the second Court after filing the same, the bill may be dismissed of course with costs.

XLIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs.

XLIV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed.

XLV. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country, When plaintiffs may ob-

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tain commiſſions *de bene eſſe*.

the Clerk may iſſue a commiſſion for taking the examination of ſuch witneſſes *de bene eſſe*; the party praying ſuch commiſſion, giving reaſonable notice to the adverſe party, of the time and place of taking the depoſitions.

After a general commiſſion ſix months allowed for taking depoſitions When cauſes are to be ſet for hearing.

XLVI. WHENEVER a general commiſſion ſhall iſſue for taking depoſitions upon anſwer and replication, ſix months from the time of the replication ſhall be allowed the parties for taking their depoſitions, and either party at the expiration of the ſaid ſix months may ſet the ſame for hearing, nor ſhall any depoſition taken after that time be read as evidence on the hearing, except the ſame was taken by conſent of the parties, by ſpecial order of Court, or out of the State.

Proceedings in the office to be regulated by the court.

XLVII. THE Court in their ſittings may regulate all proceedings in the office, and for good cauſe ſhewn, may ſet aſide any diſmiſſions, and re-inſtate the ſuits on ſuch terms as ſhall appear equitable.

Proceedings in court to be read before ſigning.

XLVIII. FOR prevention of errors in entering up the decrees and orders of the Court, the proceedings of every day ſhall be drawn up at large by the Clerk, and read in open Court the next day, (except thoſe of the laſt day of each term, which ſhall be drawn up, read, and corrected the ſame day) and any neceſſary corrections made therein, when they ſhall be ſigned by the Judge of the Court, and preſerved among the Records.

Compleat records to be made in ſuits determined.

XLIX. AND for the more entire and better preſervation of the Records of the Court, when any cauſe ſhall be finally determined, the Clerk ſhall enter all the pleadings therein, and other matters relating thereto together in a book to be kept for that purpoſe, ſo that an entire and perfect Record may be made thereof, and thoſe wherein the title to lands is determined, ſhall be entered in ſeparate books to be kept for that purpoſe only.

Writs of *certiorari ne exeat* and injunction, how granted.

L. THE Court in ſeſſion, or the Judge in vacation, may grant writs of *certiorari*, for removing before the ſaid Court the proceedings in any ſuit in Chancery, depending in any County or other Inferior Court, writs of *ne exeat* to prevent the departure of any defendant out of the Country, until ſecurity be given for performing the decree, and writs of injunction to ſtay execution of judgments obtained in any of the Courts of common Law, ſubject nevertheleſs to the rules following:

Rules as to writs of *certiorari*.

LI. NO writ of *certiorari* ſhall be granted to remove any ſuit, unleſs the matter in diſpute be of value ſufficient to entitle the High Court of Chancery to original juriſdiction therein, nor unleſs ten days notice of the motion be given in writing to the adverſe party, nor in vacation but upon ſuch petition and affidavit as are by Law directed for writs of *certiorari* to be granted by the Diſtrict Courts; and in all caſes, bond and ſecurity ſhall be given for performing the decree of the ſaid High Court of Chancery, before the iſſuing of the *certiorari*.

As to writs of *ne exeat*, and how they may be diſcharged.

LII. WRITS of *ne exeat* ſhall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the Court in term time, or the Judge in vacation, ſuch writ may be granted or refuſed as ſhall ſeem juſt; and if granted, he ſhall direct to be endorſed thereon in what penalty, bond and ſecurity ſhall be required of the defendant.

LIII. IF the defendant ſhall by anſwer ſatisfy the Court that there is no reaſon for his reſtraint, or give ſufficient ſecurity to perform the decree, the writ may be diſcharged.

As to injunctions.

LIV. NO injunction ſhall be granted to ſtay proceedings in any ſuit at Law, unleſs the matter in diſpute be of value ſufficient to admit of original juriſdiction in the ſaid High Court of Chancery, nor unleſs the Court in term time, or the Judge thereof in vacation, ſhall be ſatisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and ſhall order the ſame.

LV. WHERE any injunction ſhall be granted, the Clerk ſhall endorſe on the *ſubpœna* that the effect thereof is to be ſuſpended, until the party obtaining the ſame ſhall give bond with ſufficient ſecurity in the office of the Court in which the judgment to be enjoined ſhall have been obtained.

LVI. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the Clerk's office of that Court in which the proceedings at Law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at Law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpœna* that the bond is filed.

Court may appoint commissioners in cases which require reports and make them an allowance for their trouble.

LVII. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs.

Method of proceeding against defendants in custody who refuse to enter their appearance.

LVIII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into Court by virtue of a writ of *Habeas Corpus*, or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the Court, or appoint an Attorney of the Court to do the same for him, the Court in such case may direct an Attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an Attorney as aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator.

How appeals may be obtained from decrees in the High Court of Chancery where not entered when the decrees were pronounced.

LIX. WHEREAS many persons against whom decrees may have been rendered in the High Court of Chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced: *Be it enacted*, that if upon a petition to any Judge of the Court of Appeals, or the Judge of the High Court of Chancery in vacation next after the Term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the Term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said Judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceedings on the said decree, and for bringing the same before the Court of Appeals for their decision, as if the same had been duly made during the Term when the said decree was pronounced.

Proceedings on decrees may be stayed during the pendency of bills of review.

LX. AND whereas upon bills of review in the said High Court of Chancery, the Judge of the said Court may think it reasonable, during the pendency of such bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, that in such case, the Judge of the said High Court of Chancery, either in Term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said Court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made, or until the further order of the said Judge; or the said Judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, That the said Judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

Former acts repealed.

LXI. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Commencement of this act.

LXII. This Act shall commence and be in force, from and after the passing thereof.

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CHAP. LXV.

An Act reducing into one, the several Acts and Parts of Acts concerning the General Court, and prescribing the Manner of proceeding therein in certain Cases.

[Passed the 13th of December, 1792.]

General Court to consist of ten judges: how chosen & commissioned. Where to be held. Terms. Regulations respecting adjournment.

I. BE *it enacted by the General Assembly*, That the General Court of this Commonwealth shall consist of ten Judges, to be chosen and commissioned in the manner directed by the Constitution of the Commonwealth. Any three of the said Judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the ninth day of *June* and the ninth day of *November*, or if either of those days shall be *Sunday*, then on the succeeding day, and shall continue their Session for sixteen juridical days at each Term, unless the business before them be sooner dispatched. If a sufficient number of Judges should not attend on the first day of any Term, or on any other day during the Term, any one of the said Judges may adjourn the Court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such Court, shall stand continued over to the next succeeding Term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the Commonwealth, and take the following oath of office, to wit:

Oaths to be taken by the judges.

YOU shall swear that well and truly you will serve this Commonwealth in the office of a Judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to Law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor, affection, or partiality. So help you GOD.

By whom to be administered. Penalty for acting without taking the oaths.

Which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable such Judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court, where such Judge shall first sit. If any person shall presume to sit in Court or execute the said office, without having taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars.

Officers to be appointed by the court. Sheriff of the county in which the courts sits to attend.

II. THE said Court shall appoint a Clerk, one or more assistant Clerks, if necessary, a Cryer and Tipstaff, the first removable for misbehaviour in the manner directed by the Constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by Law. And the Sheriff, or so many of the Under-Sheriffs as shall be thought necessary, of the County where such Court may be held, shall attend the said Court during their Sessions.

Jurisdiction of the court.

III. THE jurisdiction of the said Court shall be general over all causes, matters and things at common Law, as well criminal as civil, except in such cases, as by the Constitution of the United States of *America*, or of this Commonwealth, or any Statute made by the Congress of the said United States, or the General Assembly of this Commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the

General Court ſhall ceaſe, unleſs concurrent juriſdiction be thereto expreſly given by this Act, or ſome other Statute. The ſaid Court ſhall have juriſdiction in all cauſes, matters and things therein depending at the commencement of this Act; and no diſcontinuance ſhall take place in any caſe whatſoever, by reaſon of the paſſing of this Act. The ſaid Court ſhall continue to have juriſdiction, in all caſes, ſuits and motions againſt public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the Judge of the High Court of Chancery ſhall be intereſted in any matter, which in the caſe of any other perſon would have been proper for the juriſdiction of ſuch Court, it ſhall be lawful to inſtitute ſuch ſuit in the General Court, where proceedings ſhall be had conformably to the principles and uſages of equity; and proceſs ſhall be returnable as the General Court ſhall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *ſcire facias* may be iſſued from, and be tried in the General Court, upon all judgments which have been or ſhall be obtained therein; the ſaid Court may fine Sheriffs, Deputy-Sheriffs, or Coroners, for not returning executions iſſued, or to be iſſued from the ſaid Court, and enter up judgments againſt the ſaid officers, for all money or tobacco, for which they have made or ſhall make themſelves reſpectively liable by Law upon ſuch executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of ſale; may quaſh executions if illegally or improvidently iſſued or executed, and award new ones; and finally, may exerciſe full juriſdiction in every other legal mode neceſſary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the ſaid Court; any Law to the contrary, or ſeeming to the contrary, notwithſtanding. The ſaid Court ſhall have power to hear and determine upon all errors in matters of fact, that ſhall or may have happened in the proceedings depending in the ſaid Court.

IV. THE ſaid Court ſhall have power to iſſue writs of *mandamus* to the Diſtrict Courts.

May award writs of Mandamus to the diſtrict courts. Further deſcription of juriſdiction.

V. THE ſaid Court ſhall likewiſe have juriſdiction to hear and determine motions againſt the delinquent ſubſcribers of the *Patowmac* and *James* River Companies, and for ſecurities againſt their principals; and for Sheriffs againſt their deputies and ſecurities, or either of them.

VI. FOR good cauſe ſhewn, the General Court may direct the trial of any cauſe depending before a Diſtrict Court, to be had by a Jury at their own bar, for which purpoſe the Sheriff, or any other officer attending them, ſhall ſummon a Jury qualified as the Law now directs in caſes of Juries in the General Court; or may cauſe a ſuit depending in one Diſtrict to be tried in another.

May for good cauſe direct any ſuit in a diſtrict court to be tried at their own bar or in another diſtrict.

VII. UNLESS good cauſe be ſhewn to the contrary, the General Court ſhall direct a ſuit depending before a Diſtrict Court, in which a Judge of the General Court is a party, to be removed to be tried at the bar of the General Court.

Suits in which judges are parties, to be removed to the Gen. Court.

VIII. THE General Court ſhall have juriſdiction and authority to hear and determine all cauſes, matters, ſuits, and controverſies teſtamentary, which ſhall be brought before the ſame, and to examine and take the proofs of wills, and to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, and to do all other things concerning wills and adminiſtrations, according to Law.

Juriſdiction relative to wills, adminiſtrations, &c.

IX. THE ſaid Court ſhall have power and authority to receive *probat* of all deeds whatſoever, concerning lands in any part of this Commonwealth, to iſſue commiſſions for the privy examination of any *feme, covert* and to admit the ſame to Record, as alſo to receive proof of any other deed or inſtrument of writing whatſoever, and to admit the ſame to Record therein, if they ſhall be of opinion that the ſame is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or ſhall be delivered by the Clerk thereof to any perſon authoriſed to demand the ſame, with an endorſement of the proof made, and it may be fully proved and recorded in the Court of the Diſtrict or County in which the lands lie.

Deeds partly proved, may be either fully proved therein or delivered to the parties to be fully proved in the diſtrict or county courts.

X. IF a queſtion of Law in any criminal caſe be adjourned to the General Court by any Diſtrict Court, the ſame may be therein argued and determined, although ſuch criminal be not preſent.

Rules reſpecting adjourned caſes.

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XI. ON the adjournment of any question of Law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned; but no costs shall be incurred on any adjourned question.

Rules respecting process.

XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said Court, and all subsequent process thereon, all attachments or other writs of what nature soever awarded by the said Court, shall be issued and signed by the Clerk of the said Court in the name of the Commonwealth, shall bear teste by the Clerk, and be returnable on the first day of the next succeeding Court, except *subpœnas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by Law.

The court to direct the appearance day.

XIII. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof.

Grand jury to be summoned. Proceedings on indictments, presentments, &c.

XIV. THE Sheriff for the time being of the County in which the General Court shall be held, shall before every meeting of the General Court, summon twenty-four Freeholders of this Commonwealth, qualified as the Law directs for Grand Jurors, to appear at the succeeding General Court on the first day thereof, which the Sheriff is hereby empowered to do, as well without his County as within the same, and the said twenty-four men, or any sixteen of them shall be a Grand Jury, who shall be sworn to enquire of and present all offences against the Commonwealth, which are cognizable in the said Court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said Court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

Keeper of the public jail to attend the court.

XVI. THE keeper of the public jail, shall constantly attend the General Court, and execute the commands of the Court.

The clerk to transmit lists of fines imposed by the court to the sheriffs.

XVII. THE Clerk of the General Court shall annually before the last day of *January*, transmit to the Sheriff of each County within this Commonwealth, a list of all fines imposed by the said Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said Clerk shall transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account.

Former acts repealed.

XVIII. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Commencement of this act.

XIX. THIS Act shall commence in force, from and after the passing thereof.

C H A P. LXVI.

An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 12th of December, 1792.]

The commonwealth divided into districts, and a superior court to be held in each at certain places

I. BE *it enacted by the General Assembly*, That this Commonwealth shall be divided into Districts, and a Superior Court holden in each, in the manner, and at the times and places herein after mentioned; that is to say:---The Counties of *Henrico*, *Hanover*, *Chesterfield*, *Goochland*, and *Powhatan*, shall compose one District, and a Court shall be holden for the same at the Capitol in the City of *Richmond*, on the first day of *April*, and

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the first day of *September* in every year; the Counties of *James City*, *Charles City*, *New-Kent*, *Surry*, *Gloucester*, *Mathews*, *York*, *Warwick*, and *Elizabeth City*, shall compose another District, and a Court shall be holden for the same at the City of *Williamsburg*, in the former Capitol, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Richmond*, *Westmoreland*, *Lancaster*, and *Northumberland*, shall compose another District, and a Court shall be holden for the same at *Northumberland* Court-house, on the first day of *April*, and first day of *September*, in every year; the Counties of *Essex*, *Middlesex*, *King & Queen*, and *King William*, shall compose another District, and a Court shall be holden for the same at *King & Queen* Court-house, on the fifteenth day of *April*, and fifteenth day of *September*, in every year; the Counties of *Spottsylvania*, *Caroline*, *King George*, *Stafford*, *Orange*, and *Culpeper*, shall compose another District, and a Court shall be holden for the same at *Fredericksburg*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Frederick*, *Berkeley*, *Hampshire*, *Hardy*, and *Shenandoah*, shall compose another District, and a Court shall be holden for the same at *Winchester*, on the fifteenth day of *April*, and the first day of *September*, in every year; the Counties of *Augusta*, *Bath*, *Rockbridge*, *Rockingham*, and *Pendleton*, shall compose another District, and a Court shall be holden for the same at *Staunton*, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Albemarle*, *Louisa*, *Fluvanna*, and *Amherst*, shall compose another District, and a Court shall be holden for the same at *Charlottesville*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Fairfax*, *Fauquier*, *Loudon*, and *Prince William*, shall compose another District, and a Court shall be holden for the same at *Dumfries*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Harrison*, *Monongalia*, *Ohio*, and *Randolph*, shall compose another District, and a Court shall be holden for the same at *Monongalia* Court-house, on the third day of *May*, and the twentieth day of *September*, in every year; the Counties of *Washington*, *Russell*, and *Wythe*, shall compose another District, and a Court shall be holden for the same at *Washington* Court-house, on the second day of *May*, and the second day of *October*, in every year; the Counties of *Norfolk*, *Isle of Wight*, *Princess Anne*, *Nansemond*, and *Southampton*, shall compose another District, and a Court shall be holden for the same at *Suffolk*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Prince George*, *Sussex*, *Dinwiddie*, *Nottoway*, and *Amelia*, shall compose another District, and a Court shall be holden for the same at *Petersburg*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Brunswick*, *Greensville*, *Lunenburg*, and *Mecklenburg*, shall compose another District, and a Court shall be holden for the same at *Brunswick* Court-house, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Prince Edward*, *Buckingham*, *Charlotte*, *Halifax*, and *Cumberland*, shall compose another District, and a Court shall be holden for the same at *Prince Edward* Court-house, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Bedford*, *Campbell*, *Franklin*, *Pittsylvania*, *Patrick*, and *Henry*, shall compose another District, and a Court shall be holden for the same at *New-London*, in the late Court-house of *Bedford* County, now belonging to *James* and *John Callaway*, who have agreed to put the same in repair, at their own expence, for the use of the District Court, so to be holden in *New-London*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Accomack*, and *Northampton*, shall compose another District, and a Court shall be holden for the same at *Accomack* Court-house, on the fourteenth day of *May*, and the fourteenth day of *October*, in every year; the Counties of *Greenbrier*, *Botetourt*, *Montgomery*, and *Kanawha*, shall compose another District, and a Court shall be holden for the same at *Lewisburg* in *Greenbrier*, and *Botetourt* Court-house, alternately, on the eighteenth day of *May*, and the eighteenth day of *October*, in every year, until the Proprietor of the *Sweet Springs* shall erect a sufficient Court-house and Prison for the purposes of this Act, after which time the *Sweet Springs* shall become the Seat of the District Court. And if any of the said several days be *Sunday*, the Courts shall in that case respectively begin on the succeeding day. Each Court shall sit, if business require it, twelve days successively, *Sundays* exclusive (unless such sitting shall interfere with some other District Court in the same circuit) and no longer, and shall be a Court of Record.

and on certain days.

Length of the sessions.

II. THOSE Counties which shall hereafter be made, shall, if taken from one County, or from two or more Counties lying in the same District, remain in the District to which they formerly belonged; and if taken from two or more Counties lying in different Districts,

Counties hereafter made to what district, to be annexed.

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the Counties so to be made, shall be annexed (unless it be otherwise declared by the Legislature) to such of the Districts in which the old Counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly.

Two of the judges of the Gen. Court to attend each district court.

III. IT shall be the duty of two of the Judges of the General Court to attend each District Court at their respective Terms; and the said two Judges shall constitute a Court for such District. In case of a temporary appointment of a Judge made by the Executive, such Judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said Judges shall not attend the Court, to which he shall be so allotted, in such case the other Judge shall constitute a Court, under the restrictions herein-after mentioned.

Each judge of the General Court to qualify as a judge of the District Courts. And may act as such, without qualifying as a judge of the General Court. Penalty for acting as a judge of the district courts without qualifying as such.

IV. EACH Judge of the General Court, besides the oaths required by Law to be taken by him as such, shall take another oath as Judge of the District Courts, in the same form as that prescribed by Law for a Judge of the General Court, changing the words "General Court," for "District Courts;" which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general Conservator of the Peace throughout the Commonwealth. Such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. Any person appointed a Judge of the General Court may act as a Judge of the District Courts, without having taken the oaths as a Judge of the General Court. Any Judge who shall sit as a Judge of a District Court without having taken the oaths herein required to be taken by him, shall forfeit the sum of fifteen hundred dollars, to be recovered by action of debt or information in any Court of Record, one half to the use of the Commonwealth, and the other half to the use of the Informer.

Regulations respecting adjournment of the courts and continuance of causes when they do not sit or do not finish the business.

V. IF neither of the Judges shall attend on the first day of any District Court, such Court shall stand adjourned from day to day until a Court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. If a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for their decision, all such suits and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched.

Their jurisdiction.

VI. THE jurisdiction of the said Courts respectively, shall be over all persons, and in all causes, matters or things at common Law, which were cognizable in the General Court on the twenty-second day of *December*, one thousand seven hundred and eighty-eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error*, *supersedeas*, *mandamus*, *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein after mentioned, and such cases as by the Constitution of this Commonwealth, or some particular Statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, public debtors, whether Sheriffs or others, and the recording of deeds for lands and other property within the District, and *caveats*, as the General Court heretofore had by Law, allowing the person entering any *caveat* to return a certified copy thereof, from the Register to the District Court office, within thirty days from the time of entering the said *caveat*. And the said Courts shall hear and determine all controversies touching the same. *Provided also*, That writs of *habeas corpus*, *appeal*, *error*, *supersedeas*, *mandamus* and *certiorari*, and controversies concerning mills, wills, roads, *caveats*, and letters of administration, shall not be heard or determined by any District Court, unless such writ of *error*, *supersedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said District, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the Court of some County within the said District. Those cases in which the Court of Admiralty heretofore had jurisdiction by Law, and which are not taken away by the Constitution of the United States, are hereby transferred to the District Courts to be proceeded on as the Law requires in the said Court of Admiralty.

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VII. THE Court shall have power to try all issues and enquire of damages by a Jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of Law which may arise; for which trial the Court shall cause the Sheriff attending them, to summon, impannel, and return Jurors.

Mode of trial. Jurors to be summoned & impannelled.

VIII. THE Court shall hear and determine motions against Sheriffs or other Officers, and Attornies at Law for refusing to pay money due to Clients, for the Directors of the *James* River and *Patowmac* Companies, and for securities against their principals, or against each other for contribution, in all cases and according to the rules prescribed by Law.

Further description of jurisdiction.

IX. THE Court when a question new or difficult arises, may adjourn any matter of Law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of *error* thereto from the Court of Appeals, not of right but at the discretion of the Court.

New or difficult questions may be adjourned to the General Court

X. ON an adjournment of a question to the General Court, or an appeal or writ of *error* to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question.

XI. EACH of the said District Courts in Term time, or any Judge thereof in vacation, shall, and may have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said District Courts, as is now had and exercised by the Judge of the High Court of Chancery in similar cases, and the said District Courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by Law for conducting similar suits in the High Court of Chancery.

The District Courts in term time, or any judge in vacation may grant injunctions to judgments obtained therein.

XII. WHENSOEVER there shall be a vacancy in the office of Clerk of any District Court, it shall be lawful for a majority of the Judges of the General Court to appoint, by commission under their hands and seals. *Provided*, that when such vacancy shall happen during the Session of a District Court, or the Judges of the General Court shall neglect to supply any vacancy until the ensuing Session of the District Court in which the vacancy shall be, it shall be lawful for the Judges attending such District Court to appoint a Clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the Judges of the General Court. And where the Clerk of any District Court cannot attend, it may be lawful for the Judge or Judges of such Court, to appoint a Clerk *pro tempore*.

Vacancy in the office of clerk, how to be supplied.

When clerks *pro tempore* may be appointed.

XIII. EVERY person appointed Clerk of any District Court, having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by Clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the Clerks respectively, before any Court of Record in the Commonwealth, and a certificate thereof shall be entered of Record in his District, wherein at the first Session after his appointment, he shall moreover enter into bond, with sufficient security, in the penalty of ten thousand dollars, payable to the Governor or Chief Magistrate, and his Successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feisance or mis-feisance of the Clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied.

Every clerk to take the oaths of fidelity and of office, and to enter into bond with security for performance of his duty.

XIV. EACH Clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Court-house of which he is Clerk; but when it is held alternately at different Court-houses, then he shall keep his office at either the one or the other Court-house, as he may think best. The Clerks fees shall be the same with those of the County Courts for similar services, and for all other services, the same as those of the Clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the Clerks of the County Courts now are.

Tenure of their office. How removable. To reside and keep their offices at the District court-houses; their fees.

XV. A TAX of one dollar shall be, and is hereby imposed on all final judgments in the District Courts, which shall be paid by the party obtaining the same, to the Clerk of

Taxes on judgments and process.

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the Court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner as is by Law directed, and the taxes on appeals from the District Courts, and also on Attornies practising therein, shall be the same; to be collected, accounted for, and paid by the Clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the County Courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of *error*, *supersedeas*, special verdict, or case agreed, transferred from the General Court to the District Courts.

Criminal jurisdiction. In what cases two judges shall be necessary to constitute a court.

Proviso. When the court is divided in a criminal case, the question to be considered as adjudged in favor of the criminal.

Mode of proceeding in criminal cases when two judges do not attend.

XVI. THE District Courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations hereinafter prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two Judges shall be necessary to proceed upon the trial of the issue, whether in Law or fact. *Provided always*, That if only one Judge shall attend the said Court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one Judge shall constitute a Court for such purpose. When two Judges shall attend, all questions arising in criminal cases, and submitted to the Court, in case the Court shall be divided, shall be considered as adjudged in favor of the criminal; and if the Court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two Judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued over to the next Court to be holden for that district; and if two Judges do not attend at such next Court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next Term, and render himself pursuant to his recognizance, and there shall not be a sufficient Court to try such prisoner, on or before the third day of that Court, such prisoner shall be forthwith discharged. *Provided always*, That any one Judge may hear and determine a motion in behalf of the Commonwealth, for giving judgment and awarding execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A District Court may adjourn a question of Law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present.

Certain cases excepted.

Questions of law in criminal cases may be adjourned to the General Court.

A Jailor to be appointed in each district. District jails to be subject to the direction of the judges. The judges to make allowances to the jailors. Keepers of county jails, used as district jails, to act as keepers of the district jails. District jailors to be exempted from serving in the militia and on juries.

XVII. A PUBLIC Jailor shall be from time to time appointed to each District by the Governor and Council, who shall give bond and security to the Governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the Judges of the District Court; and the said Judges shall have the direction of the District Jail, and they are hereby authorised and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said Judges shall think reasonable, and moreover to certify such allowance, from time to time, to the Auditor, who is hereby directed to debit the same, and give a warrant upon the Treasurer for the payment thereof. *Provided nevertheless*, That whenever the Jail of a County is used as a District Jail, the keeper of the County Jail, and no other, shall act as keeper of the Jail of the said District. The Jailor during his continuance in office, shall be exempted from serving in the militia, and on Juries. The keeper of the District Jail shall constantly attend the said Court, and execute the commands of the said Court from time to time, and take or receive into his custody, all persons by the Court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt to the Court, and him or them safely keep until thence discharged by due course of Law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the Jailor shall be allowed by the public, seventeen cents *per* day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or

Poor prisoners not to be detained for non-payment of prison fees.

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she be detained for such prison fees. The keeper of the District-Jail, by order of any two Justices of his County, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by Law allowed for guards impressed by Sheriffs for securing prisoners. The fee to the Sheriff of the County, and to the District Jailor for keeping and dieting any such prisoner, shall be seventeen cents *per* day.

Guards may be impressed for the district jails.
Fees for keeping and dieting prisoners.

XVIII. PRISON rules and bounds shall be assigned by the District Courts.

Prison rules to be assigned.

XIX. TO prevent misconstruction, it is hereby declared, that the Sheriff of the County in which any District Court shall sit, shall execute all judgments rendered by such Court in any criminal case, provided such judgments are by Law to be executed in the said County. Every District Court may make a reasonable allowance to the Sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the Cryer of the General Court; and the Auditor of Public Accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as Cryers in the several District Courts, agreeable to the certificates of the Clerks of the said Courts, to be paid in the same manner as the Cryer of the General Court.

Judgments of the District Courts in criminal cases, by whom to be executed.
Allowances to be made to sheriffs attending the courts.

XX. THE Judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be as nearly as may be, assimilated to those now used in the General Court.

The Court of Appeals to direct the forms of writs.

XXI. ALL writs, summonses, and other legal process, shall be issued by the Clerk, bear teste in his name, and be returnable to the next Court to be holden for the District, except in the case of *subpœnas* for witnesses, which may be returnable immediately, if issued in Term time, or on any day of the Term.

Directions concerning process.

XXII. WRITS of *habeas corpus* may be granted by the said Courts, pursuing in all respects the Act, intituled, "*An Act directing the mode of suing out and prosecuting writs of habeas corpus.*" And where any person shall be committed in any civil action to the Jail of any County or Corporation, for any cause or matter cognizable in the District Courts, it shall be lawful for the Clerk of the Court of the District wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in Jail, to issue a writ of *habeas corpus cum causa*, to remove the body of such prisoner into the District Jail, and the cause of his commitment into such District Court, returnable on the first day of the succeeding Court, if issued in vacation, on the last of the Term, if sued out whilst the Court is sitting.

Writs of *habeas corpus*, in what manner to be granted.
How to be obtained by any mitted to a county jail in a civil action.

XXIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same on the proper return day in the next District Court; and if such Defendant being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

Process in suits against the Governor, Councillors, Judges, and Sheriff.

XXIV. NO writ of *capias ad respondendum* shall be issued against any person in any other District than that in which he resides, until a *non est inventus* has been returned in his or her District, upon a *capias* issued against such Defendant in the same suit, and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwise, it shall be lawful to prosecute such persons jointly, in whatever District either of them may reside, and process shall be issued and served accordingly in any County or District wherein the non-resident Defendant or Defendants may

No person to be sued out of the district in which he resides until a *non est inventus* has been returned on a *capias* issued against him in such district.

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In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

be found; and where the bond or other writing on which such suits shall be founded, shall be filed in the General Court, in a County or other Inferior Court, in the Court of one District, and Oyer thereof shall be demanded by the Defendant or Defendants to a suit in another District, it shall be sufficient for the Plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the Clerk of the Court, wherein the same is filed, and the Defendant or Defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If however the Defendant or Defendants shall in such case plead that the original bond or writing is not his or their deed; the Clerk of the Court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue for the inspection of the Jury.

In certain suits plaintiff must indorse on the writ the true species of action. When the sheriff may take the engagement of an attorney to appear for the defendant. Defendant not to be committed for want of bail in certain suits.

XXV. IN all actions to recover the penalty for breach of any Penal Law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney shall on pain of having his suit dismissed with costs, indorse on the original writ or subsequent process, the true species of action, that the Sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the Sheriff may take the engagement of an Attorney practising in the District Court, indorsed on the writ, that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office, on the first day after the end of the Court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the Court next preceeding. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail, but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Judge of the General Court in actions of trespass, assault and battery, trover and conversion, and in actions on the case where, upon proper affidavit or affirmation it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

In certain cases a judge may direct an appearance bail.

Directions to the sheriff where bail is required.

XXVI. IN all actions of debt, founded upon any writing obligatory, bill or note in writing for the payment of money or tobacco, all actions of *covenant* and *detinue*, in which cases the true species of action shall be indorsed on the writ as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the Clerk's office, before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of *detinue*, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge.

When the bail may defend the suit. How bail shall be given in *detinue*.

Remedy against sheriff neglecting to take sufficient bail.

XXVII. AND if the Sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff depart this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the Court at their next succeeding Term; and in all cases where the bail shall be adjudged insufficient, and judgment entered against

Exceptions to bail, when to be made, and determined.

Sheriffs remedy against bail adjudged insufficient.

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the Sheriff, he ſhall have the ſame remedy againſt the eſtate of the bail as againſt the eſtate of the Defendant.

Office judgments, when ſet aſide.

XXVIII. AND every judgment entered in the office againſt a Defendant and bail, or againſt a Defendant and Sheriff, ſhall be ſet aſide, if the Defendant at the ſucceeding Court ſhall be allowed to appear without bail, put in good bail, being ruled ſo to do, or ſurrender himſelf in cuſtody, and ſhall plead to iſſue immediately. The Court ſhall regulate all other proceedings in the office during the preceding vacation, and rectify any miſtakes or errors which may have happened therein.

Errors in the office, how rectified.

Remedy of the bail and ſheriff againſt the defendant's eſtate.

XXIX. IN every caſe where judgment ſhall be confirmed againſt any Defendant or Defendants and bail, or the Sheriff, his Executors, Adminiſtrators, or eſtate, as aforeſaid, the Court upon motion of ſuch bail, or of ſuch Sheriff, his Executors or Adminiſtrators, or any other perſon on behalf of his eſtate, may order an attachment againſt the eſtate of ſuch Defendant or Defendants, returnable to the next ſucceeding Court, and upon the execution and return of ſuch attachment, the Court ſhall order the eſtate ſeized, or ſo much thereof as will be ſufficient to ſatisfy the judgment and coſts, and all coſts accruing under the attachment, to be ſold as goods taken in execution upon a *fieri facias*, and out of the money ſuch judgment and coſts ſhall be ſatisfied, and the ſurplus, if any, reſtored to the Defendant or Defendants when required.

How ſpecial bail may be taken in the country and excepted to.

XXX. ANY Judge of the General Court, when the Diſtrict Court is not ſitting, or any Juſtice of the Peace, may take recognizance of ſpecial bail in any action therein depending, which ſhall be tranſmitted by the perſon taking the ſame, before the next ſucceeding Court, to the Clerk of the ſaid Court, to be filed with the papers in ſuch action, and if the Plaintiff or his Attorney ſhall except to the ſufficiency of the bail ſo taken, notice of ſuch exception ſhall be given to the Defendant or his Attorney, at leaſt ten days previous to the day on which ſuch exception ſhall be taken, and if ſuch bail ſhall be adjudged inſufficient by the Court, the recognizance thereof ſhall be diſcharged, and ſuch proceedings ſhall be had, as if no ſuch bail had been taken.

Surrender of principal and proceedings thereupon.

XXXI. EVERY ſpecial bail may ſurrender the principal before the Court where the ſuit hath been or ſhall be depending, at any time either before or after judgment ſhall be given; provided ſuch ſurrender be made before the appearance day of the firſt *ſcire facias* againſt the bail returned executed, or of the ſecond returned *nihil*, but in either caſe the ſpecial bail ſhall pay the coſts of the ſaid *ſcire facias*, and judgment for the ſame ſhall be entered againſt him accordingly. Upon ſuch ſurrender, the bail ſhall be diſcharged, and the Defendant or Defendants ſhall be committed to the cuſtody of the Sheriff or Jailor attending ſuch Court, if the Plaintiff or his Attorney ſhall deſire the ſame, or ſuch ſpecial bail may diſcharge himſelf or herſelf by ſurrendering the principal or principals to the Sheriff of the County where the original writ was ſerved, and ſuch Sheriff ſhall receive ſuch Defendant or Defendants, and commit him, her, or them, to the Jail of his County, and ſhall give a receipt for the body or bodies of ſuch Defendant or Defendants, which ſhall be by the bail tranſmitted to the Clerk of the Court where the ſuit is or was depending. When ſuch ſurrender after judgment ſhall be to the Sheriff, he ſhall keep ſuch Defendant or Defendants in his cuſtody, in the ſame manner, and ſubject to the like rules, as are provided for debtors committed in execution, for the ſpace of twenty days, unleſs the Creditor, his Attorney, or Agent, ſhall ſooner conſent to his, her, or their diſcharge. The bail ſhall give immediate notice of ſuch render to the Creditor, his Attorney, or Agent, and if within the ſaid twenty days, ſuch Creditor, his Attorney, or Agent, ſhall not in writing charge the Debtor or Debtors in execution, he, ſhe, or they ſhall be forthwith diſcharged out of cuſtody, but the Plaintiff or Plaintiffs may nevertheleſs afterwards ſue out any legal execution againſt ſuch Debtor or Debtors, without ſuing out a *ſcire facias*.

Method of proceeding againſt a defendant in cuſtody.

XXXII. WHEN the Sheriff or other proper officer, ſhall return on any original or meſne proceſs, that he hath taken the body of any Defendant and committed him to priſon for want of appearance bail, the Plaintiff may proceed, and the Defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the Defendant ſhall not be diſcharged out of cuſtody until he ſhall put in good bail, or the Plaintiff ſhall be ruled by the Court to accept an appearance without bail, and where any Defendant after appearance entered, ſhall be confined to priſon, the Plaintiff may file his de-

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claration, give a rule to plead, and deliver copies of ſuch declaration and rule to the Defendant or his Attorney, and if the Defendant ſhall fail to enter his plea, within two months after receiving ſuch declaration and notice, the Plaintiff may have his judgment by default, as in other caſes.

What further proceſs when a *capias* is returned "not found." Proceedings on attachment returned "executed."

XXXIII. WHERE the Sheriff or other proper officer, ſhall return on any writ of *capias* to anſwer in any civil action, that the Defendant is not found within his bailiwick, the Plaintiff may either ſue out an *alias* or a *pluries capias*, until the Defendant ſhall be arreſted, or a *teſtatum capias*, where he ſhall be removed into another county, or may, at his election, ſue out an attachment againſt the eſtate of the Defendant to force an appearance; and if the Sheriff or other officer ſhall return that he hath attached any goods, and the Defendant ſhall not appear and replevy the ſame, by entering his appearance and giving ſpecial bail, in caſe he ſhall be ruled ſo to do, the Plaintiff ſhall file his declaration, and be entitled to a judgment for his debt or damages and coſts, which judgment ſhall be final in all actions of debt founded on any ſpecialty, bill or note in writing, aſcertaining the demand, unleſs the Plaintiff ſhall chooſe in any ſuch caſe to have a writ of enquiry of damages, and in other caſes the damages ſhall be ſettled by a Jury ſworn to enquire thereof. The goods attached ſhall remain in the hands of the officer until ſuch final judgment be entered, and then be ſold in the ſame manner as goods taken upon a *fieri facias*, and if the judgment ſhall not be thereby ſatisfied, the Plaintiff may ſue out execution for the reſidue; and in caſe more goods be attached than will ſatisfy the judgment, the ſurplus ſhall be returned to the Defendant.

Where proceſs is executed but not returned.

XXXIV. IF any writ or proceſs ſhall be executed, and for want of a return thereof to the office from which it iſſued, an *alias*, *pluries*, attachment, or other proceſs be awarded, the Sheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, if it be in his poſſeſſion, but if it be not in his poſſeſſion, then he ſhall return the ſubſequent proceſs, with an indorſement of the execution of ſuch firſt proceſs, and the name of the appearance bail, if any was taken, and ſhall alſo return a copy of the bail bond, on which there ſhall be the ſame proceedings, as if the ſaid firſt proceſs had been duely returned.

Rules to be obſerved in the proſecution of ſuits.

XXXV. RULES ſhall be monthly held in the Clerk's office of each Diſtrict Court, beginning the day after the riſing of ſuch Court. The Plaintiff ſhall file his declaration in the Clerk's office at the next ſucceeding rule day, after the Defendant ſhall have entered his appearance, or the Defendant may then enter a rule for the Plaintiff to declare, which if he fails or neglects to do, at the ſucceeding rule day, or ſhall at any time fail to proſecute his ſuit, he ſhall be non-ſuited, and pay to the Defendant or Tenant beſides his coſts, three dollars, where his place of abode is at the diſtance of twenty-five miles or under, from the place of holding the ſaid Diſtrict Court, and where it is more, ten cents for every mile above twenty.

XXXVI. ONE month after the Plaintiff hath filed his declaration, he may give a rule to plead with the Clerk, and if the Defendant ſhall not plead accordingly at the expiration of ſuch rule, the Plaintiff may enter judgment for his debt, or damages and coſts.

XXXVII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, ſhall be given regularly from month to month, ſhall be entered in a book to be kept for that purpoſe, and ſhall expire on the ſucceeding rule day.

XXXVIII. NO plea in abatement ſhall be admitted or received, unleſs the party offering the ſame, ſhall prove the truth thereof, by oath or affirmation, as the caſe may require. And no plea of *non eſt factum* offered by the perſon charged as the obligor or grantor of a deed, ſhall be admitted or received, unleſs the truth thereof ſhall in like manner be proved by oath or affirmation.

XXXIX. AND where any perſon other than the obligor ſhall be Defendant, ſuch Defendant ſhall prove by oath or affirmation, that he or ſhe verily believes, that the deed on which the action is founded, is not the deed of the perſon charged as the obligor or grantor thereof; in which laſt mentioned caſe, the plea of *non eſt factum* ſhall not be admitted or received without ſuch oath or affirmation. And where a plea in abatement ſhall upon

argument be adjudged insufficient, the Plaintiff ſhall recover full coſts, to the time of over-ruling ſuch plea, a lawyer's fee only excepted.

XL. THE Plaintiff in replevin, and the Defendant in all other actions, may plead as many ſeveral matters, whether of Law or fact, as he ſhall think neceſſary for his defence.

XLI. ON the return of the pluries, that the Defendant is not to be found, the Court inſtead of the proceſs to outlawry formerly uſed, may order a proclamation to iſſue, warning the Defendant to appear at a certain day therein named, or that judgment will be rendered againſt him, which proclamation ſhall be publiſhed at three ſucceſſive Court days, at the door of the Court-houſe of the County to which the laſt proceſs was directed, and alſo three times in the *Virginia* Gazette; and if the Defendant fails to appear purſuant to ſuch proclamation, the ſame proceedings ſhall be had, and the ſame judgment given, as in other caſes of default. Proceedings on a pluries returned "not to be found."

XLII. ALL judgments by default for want of an appearance or ſpecial bail, or pleas as aforeſaid, and non-ſuits or diſmiſſions obtained in the office, and not ſet aſide on ſome day of the next ſucceeding Diſtrict Court, ſhall be entered by the Clerk as of the laſt day of the Term, which judgment ſhall be final in actions of debt, founded on any ſpecialty, bill or note in writing, aſcertaining the demand, unleſs the Plaintiff ſhall chooſe in any ſuch caſe to have a writ of enquiry of damages, and in all other caſes the damages ſhall be aſcertained by a Jury, to be impannelled and ſworn to enquire thereof, as is herein after directed. Judgments by default, non-ſuits, &c. when to be entered. Plaintiff in judgment by default may have a writ of enquiry.

LXIII. BEFORE every Diſtrict Court, the Clerk ſhall enter in a particular docket, all ſuch cauſes, (and thoſe only) in which an iſſue is to be tried, or enquiry of damages to be made, or a ſpecial verdict, caſe agreed, demurrer, or other matter of Law is to be argued, in the ſame order, as they ſtand in the courſe of proceeding, ſetting as near as may be, an equal number of cauſes to each day. Rules for docketing cauſes.

XLIV. IT ſhall be lawful for the Diſtrict Courts, on giving judgment in any caſe removed by appeal, writ of error, *ſuperſedeas*, or *certiorari*, from the Inferior Courts, either for the Appellant, Appellee, Plaintiff or Defendant, and in any cauſe originating in the Diſtrict Courts, where the verdict or judgment ſhall be given for the Defendant, to award coſts to the party or parties, in whoſe favor ſuch judgment ſhall be given; and on all motions it ſhall be lawful for the ſaid Courts to give or refuſe coſts at their diſcretion; and in all other cauſes where the Plaintiff ſhall recover debt or damages, the coſts ſhall be governed by Law. In what caſes the court may award coſts. In what to be governed by law.

XLV. A *CERTIORARI* to remove proceedings on a forcible entry or detainer, or for any other purpoſe, except the removal of a ſuit from an Inferior Court, may be granted without notice. When *certiorari* may be granted without notice.

XLVI. FOR preventing errors in entering up the judgments of the ſaid Courts, the proceedings of every day ſhall be drawn up at large, by the Clerk againſt the next ſitting of the Court, when the ſame ſhall be read in open Court, and ſuch corrections as are neceſſary, being made therein, they ſhall be ſigned by the preſiding Judge, and carefully preſerved among the Records. On the laſt day of each Court, the proceedings therein ſhall be drawn up, read, corrected, ſigned and preſerved as aforeſaid. Proceedings to be read and ſigned.

XLVII. WHEN any cauſe ſhall be finally determined, the Clerk of the Diſtrict Court, ſhall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, ſo as to make a complete Record thereof, and thoſe wherein the title of lands is determined, ſhall be entered in a ſeparate book to be kept for that purpoſe. Compleat records to be made of cauſes determined.

XLVIII. ON writs of *ſcire facias* for renewal of judgments, no judgment ſhall be rendered on the return of two *nihils*, unleſs the Defendant reſides in the Diſtrict, or unleſs he be abſent from the Commonwealth, and have no known Attorney within the ſame. But ſuch *ſcire facias* may be directed to the Sheriff of any County in this Commonwealth, wherein the Defendant or his Attorney ſhall reſide or be found, which being returned ſerved, the Court may proceed to judgment thereon, as if the Defendant had reſided in the Diſtrict. Proceedings on writs of *ſcire facias* for renewal of judgments in certain caſes.

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Certiorari how to be obtained.

XLIX. IF any perſon or perſons ſhall deſire to remove any ſuit depending in any Inferior Court, into the Diſtrict Court, provided the ſame be originally cognizable therein, a *certiorari*, for ſuch removal, may be granted by the Diſtrict Court, for good cauſe ſhewn upon motion, and ten days previous notice thereof, given in writing to the adverſe party, or in vacation, the party deſiring ſuch writ, ſhall by petition to the Judges of the General Court, ſet forth his or her reaſons, and make oath before a Magiſtrate of the truth of the allegations of ſuch petition, whereupon any Judge of the ſaid Court, may, under his hand, order the *certiorari* to iſſue, and direct the penalty of the bond, to be taken previous thereto, or may reject ſuch petition, as to him ſhall ſeem juſt; provided that ten days previous notice of the time and place of applying for ſuch writ, be given in writing to the adverſe party, upon which order of the Judges, the Clerk ſhall iſſue the *certiorari*. *Provided*, that the party ſhall enter into bond with ſufficient ſecurity, in the penalty ſo directed, with condition for ſatisfying all money or tobacco and coſts, which ſhall be recovered againſt the party in ſuch ſuit; but if any ſuit ſo removed by *certiorari*, ſhall be remanded to the Inferior Court, by *procedendo* or otherwiſe, ſuch cauſe ſhall not afterwards be removed to the Diſtrict Court, before judgment ſhall be given therein in the Inferior Court.

Rule reſpecting ſuits remanded.

Puniſhment of falſe ſwearers.

L. THE Clerks of the Diſtrict Courts, ſhall carefully preſerve all ſuch petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any perſon in ſuch affidavit, ſhall wilfully make a falſe oath, and be thereof convicted, upon a proſecution commenced within twelve months after the offence committed, ſuch offender ſhall ſuffer the pains and penalties directed for wilful and corrupt perjury.

No writ of error or *ſuperſedeas* before final judgment; or after five years from the date thereof; ſaving the rights of infants, &c.

LI. NO writ of error or *ſuperſedeas* ſhall be granted in any caſe, until a final judgment in the County or other Inferior Court.

LII. NO *ſuperſedeas* or writ of error, ſhall be granted to any judgment in the Diſtrict or County, or other Inferior Court, after the expiration of five years, from and after the date thereof; ſaving the rights of infants, *femes covert*, perſons *non compos*, in priſon, or beyond ſeas, until the expiration of two years after the diſability ceaſes.

Appeals to the Diſtrict courts in certain caſes.

LIII. WHERE any perſon or perſons, body politic or corporate, ſhall think themſelves aggrieved by the judgment, or ſentence of any County Court, or Court of Huſtings, in any action, ſuit or conteſt whatſoever, where the debt or damages, or other thing recovered or claimed in ſuch ſuit, excluſive of the coſts, ſhall be of the value of one hundred dollars, or three thouſand pounds of tobacco or upwards; or where the title or bounds of land ſhall be drawn in queſtion, or the conteſt ſhall be concerning mills, roads, the *probat* of wills, or certificates for obtaining adminiſtration, ſuch perſon or perſons, body politic or corporate, may enter an appeal from ſuch judgment or ſentence, to the firſt day of the next Court of the Diſtrict, in which ſuch County is.

How a *ſuperſedeas* may be obtained.

LIV. THE party praying a writ of *ſuperſedeas*, ſhall petition the Diſtrict Court for the ſame, pointing out the errors he means to aſſign in the proceedings, and procure ſome Attorney practiſing in ſuch Court reſpectively, to certify, that in his opinion there is ſufficient matter of error for reverſing the judgment, whereupon ſuch Courts in their Seſſion, or any Judge of ſuch Court reſpectively in vacation, may order ſuch writ to be iſſued, or reject the petition, as to them ſhall ſeem juſt.

Writs of error or *ſuperſedeas* not to be allowed unleſs judgment amounts to a certain ſum.

LV. WRITS of error or *ſuperſedeas*, may be granted by a Diſtrict Court, or any Judge of the General Court, to a judgment of a County Court, where ſuch judgment ſhall be of the value of thirty-three dollars, and thirty-three cents, or one thouſand pounds of tobacco, or upwards.

Bond and ſecurity to be given on obtaining an appeal, writ of error, &c. Sufficient, if given by one of ſeveral parties.

LVI, BEFORE granting any appeal, or the iſſuing of any writ of error or *ſuperſedeas*, the party praying the ſame, ſhall enter into bond with ſufficient ſecurity, in a penalty to be fixed by the Court or Judge granting the ſame, with condition to pay the amount of the recovery, and all coſts and damages awarded, in caſe the judgment or ſentence be affirmed. Where ſeveral appeal, or obtain a writ of *error* or *ſuperſedeas*, bond and ſecurity given by any party, ſhall be ſufficient.

Judgment on reverſal.

LVII. IF upon hearing any writ of error or *ſuperſedeas*, the judgment of the Inferior Court be reverſed in whole or in part, the Diſtrict Court ſhall enter ſuch judgment thereupon, as ought to have been entered in the Inferior Court.

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LVIII. BONDS to be given in Court for obtaining writs of error, *supersedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an Obligor.

Bonds on appeals, &c. may be given by any responsible person.

LIX. WHERE the Defendant in any personal action appeals, or obtains such writ of error or *supersedeas*, if the judgment be affirmed, the damages besides costs shall be ten *per centum per annum* upon the principal sum and costs, recovered in the Inferior Court, in satisfaction of all damages or interest.

Damages upon affirmance.

LX. IN real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco besides costs, and where the Plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the Inferior Court be affirmed, the party appealing shall pay to the other all costs.

LXI. IF a Record on an appeal, writ of error, or *supersedeas*, be not delivered to the Clerk of the District Court before or during the second Term of such Court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the Court to the contrary; and after such dismission, no writ of error, or *supersedeas*, shall be allowed.

Rule respecting filing records on appeals.

LXII. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the Commonwealth, in such Courts as he cannot attend himself.

Attorney General to appoint deputies.

LXIII. THE Clerk of each District Court shall annually before the last day of *January*, transmit to the Sheriff of each County within the District, a list of all fines imposed by the District Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for Insolvents, and five *per centum* commissions; and the said Clerks shall severally transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account.

Lists of fines imposed by the courts to be sent to the sheriffs, to be collected by them, and copies of such lists to be sent to the Auditor.

LXIV. THE said Courts shall have jurisdiction respectively in all causes, matters and things in the District Courts respectively depending at the commencement of this Act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court at the commencement of this Act, by reason of the passing thereof, but the same shall be therein tried and determined as if this Act had never been made.

Jurisdiction as to causes now pending.

LXV. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

LXVI. THIS Act shall commence in force on the first day of *January*, one thousand seven hundred and ninety-three.

Commencement of this act.

C H A P. LXVII.

An Act to reduce into one, the several Acts concerning the County and other Inferior Courts of this Commonwealth.

[Passed the 3d of December, 1792.]

I. BE *it enacted by the General Assembly*, That in every County, City, Corporation, and Borough within this Commonwealth, in which the power of holding Courts hath been heretofore, or shall hereafter be vested by Law, a Court, to be denominated the Court of such County, City, Corporation, or Borough, respectively, shall hereafter con-

County and corporation courts to be held by the justices thereof.

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tinue to be held by the Justices of such Counties, and the Magistrates of such Cities, Corporations, and Boroughs, respectively, at the times and places, and in the manner hereinafter directed; any four of which Justices or Magistrates shall constitute a Court, except in such cases where a greater number may by any Law be directed.

Any four of them to constitute a court.

II. EVERY person appointed a Justice of the Peace for any County or Corporation, before his entering upon and executing the said office, shall publicly in the Court-house of his County or Corporation, and on a Court day, take the oath of fidelity to the Commonwealth, as also the following oaths, to wit:

Justices shall be sworn.

Their oath.

YOU shall swear that as a Justice of the Peace, in the County (or Corporation of , in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, to the best of your ability and judgment, and according to Law; and you shall not be of counsel of any quarrel hanging before you, and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling; you shall not let, for gift, or other causes, but well and truly you shall do your office of a Justice of the Peace, as well within your County (or Corporation) Court, as without, and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct, or cause to be directed, any warrant by you to be made, to the parties; but you shall direct them to the Sheriff or other Officer of the Commonwealth, or other indifferent person, to do execution thereof. So help you GOD.

The oath of a Justice of the County or Corporation Courts in Chancery:

Oath of a justice in chancery.

YOU shall swear that well and truly you will serve the Commonwealth in the office of a Justice in the County (or Corporation) Court of , in Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of the Commonwealth of Virginia, *without favor, affection, or partiality.* So help you GOD.

Penalty for acting without qualifying.

And if any person whatsoever shall presume to execute the office of a Justice of the Peace, or Magistrate of a County or Corporation Court, without first qualifying himself in the manner by this act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the Commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any Court of Record in this Commonwealth.

Courts may be adjourned from day to day for six days.

III. IF the business of any of the said Courts cannot be determined on the Court day, the Justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner hereinafter directed.

How to be adjourned when the justices do not attend.

IV. IF a sufficient number of Justices should not attend to form a Court on the first day of any Court, or any subsequent day thereof, it shall and may be lawful for any one Justice to adjourn the Court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding Court. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. No discontinuance shall take place in any case by reason of the Justices failing to make a Court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding Court in course, in the same manner as if such succeeding Court had been the same Court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, as if the next succeeding Court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order to such Court, without any fee to the Clerk for the continuance of such as shall not then be called over.

Suits not to be discontinued by the justices failing to hold a court.

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V. THE Justices of every such Court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said Courts, at the common Law, or in Chancery, within their respective Counties and Corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars, or two hundred pounds of tobacco, other than prosecutions on any penal Law of this Commonwealth; and also such cases as are by Law exclusively vested in any other tribunal.

Jurisdiction of the court.

Certain causes excepted.

VI. WHEN the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one Justice of the Peace, who may give judgment, and thereupon award execution against the goods and chattels of the Debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the Sheriff or Constable to whom directed, in the same manner, as other writs of *fieri facias*, are to be executed and returned, but no execution shall be by him granted against the body of the Defendant.

Causes determinable before one justice. But he may not issue execution against the defendant's body.

VII. THE said Courts shall be held at the several respective places, at present assigned by Law for that purpose, or at such place or places, as shall be hereafter lawfully appointed, on the several days for holding Courts heretofore in such Counties or Corporations respectively appointed by Law, in the months of *March*, *May*, *August*, and *November*, in every year, except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common Law and in Chancery, where the sum exceeds twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter shall be brought in any of the said Courts, and shall continue for the space of six days, unless the business be sooner determined; which Sessions of the said Courts shall be denominated the quarterly Sessions of such Courts respectively. *Provided always*, that in the Counties of *Montgomery*, *Washington*, *Russel*, and *Wythe*, such Courts shall be held on the days now by Law respectively appointed for holding Courts in the months of *April*, *June*, *September*, and *November*; and in the Counties of *Henry* and *Cumberland*, in the months of *February*, *April*, *July*, and *October*; and in the Counties of *Norfolk*, *Princess Anne*, *Northampton*, *Nansemond*, *Stafford*, *Spotsylvania*, *Fairfax*, *Loudoun*, *Prince William*, *Berkely*, and *Ohio*, and in the Borough of *Norfolk*, in the months of *March*, *June*, *August*, and *November*; and in the County of *Pendleton*, in the months of *April*, *June*, *September*, and *December*; and in the County of *Hampshire*, in the months of *March*, *May*, *September*, and *November*, in every year; and in the Counties of *King George* and *Frederick*, in the month of *June*, annually, instead of the month of *May*.

Quarterly sessions.

VIII. A MONTHLY Session of the said Courts shall be held in like manner, on the days heretofore by Law appointed for holding Courts in such Counties and Corporations respectively, in every month in which there shall not be a quarterly Session for the trial of petitions for small debts, or for trover and conversion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of *probat* and administration, and for the transaction of all business, which by Law is or shall be made cognizable in a County or Corporation Court, except such as has been herein assigned to the Court of quarter Sessions. *Provided nevertheless*, that injunctions in Chancery may be granted or dissolved, judgments on attachments against absconding Debtors, where the property attached shall not be replevied, entered up, and all matters touching the breach of the Peace, and good behaviour, motions on replevy bonds, and against Sheriffs and other public Officers and Defaulters, may be heard and determined either at a monthly or quarterly Court.

Monthly sessions.

Concurrent jurisdiction of monthly and quarterly courts.

IX. ALL original process to bring any person or persons to answer in any action or suit, indictment or information in the said Courts, and all subsequent process thereon, all process in Chancery awarded by the said Court, and all other writs of what nature soever, shall be issued and bear teste by the Clerk of such Courts respectively, and made returnable to the first day of the next succeeding quarterly Term; except *subpœnas* of injunction, attachments, petitions and *subpœnas* for witnesses, which shall be returnable to the next succeeding Court, be the same monthly or quarterly, as the case may require.

Method of issuing and returning process.

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Special bail, may be taken in court.

X. SPECIAL bail may be taken in Court at the quarterly Seſſions, or at the monthly Courts.

Proceedings againſt abſent defendants, as in the High Court of Chancery. May hear and determine caveats againſt grants for land. Executions, when returnable.

XI. THE County and Corporation Courts, at their quarterly Seſſions, ſhall have ſimilar juriſdiction with the High Court of Chancery, and ſhall proceed in the ſame manner againſt the eſtate and effects of perſons reſiding out of this State, or abſconding to avoid being ſerved with the proceſs of the ſaid Court; and may hear and determine all *caveats* againſt grants for lands lying within the juriſdiction of the ſaid Courts reſpectively.

XII. ALL writs of execution upon judgments obtained in the quarterly or monthly Courts, and all executions and other proceſs to enforce any decree in Chancery, obtained in either of the ſaid Courts, may be made returnable to the firſt day of a quarterly or monthly Court, provided there be not leſs than fifteen, nor more than ninety days between the teſte and return of ſuch execution or proceſs.

Courthouſes and other public buildings ſhall be erected and kept in repair.

XIII. FROM time to time, forever hereafter, the Court of every County and Corporation within this Commonwealth, ſhall cauſe to be erected and kept in repair, (or where the ſame ſhall be already built, ſhall maintain and keep in good repair) within each reſpective County and Corporation, and at the charge of ſuch County or Corporation, one good and convenient Court-houſe of ſtone, brick, or timber, and one common Jail and County Priſon, well ſecured with iron bars, bolts, and locks, and alſo one Pillory, Whipping-Poſt, and Stocks; and where land ſhall not be already provided and appropriated for that purpoſe, ſuch Court may purchaſe two acres, whereon to erect the ſaid public buildings, for the uſe of their County or Corporation, and for no other uſe whatſoever. And to every Court-houſe, already built and eſtabliſhed, two acres of the land, built upon and adjacent thereto, not having any houſe, orchard, or other immediate convenience thereon, ſhall be and remain appropriated to ſuch Court-houſe, and the fee-ſimple thereof, is hereby declared to be in the Court of the ſame County, and their ſucceſſors, to the uſe of ſuch County as aforeſaid; but where a Court-houſe is already built in any City or Town, the Land now laid off for the ſame, and the other public buildings, ſhall be judged and held to be ſufficient. And if the Juſtices of any County or Corporation Court, ſhall at any time hereafter fail to keep and maintain a good and ſufficient Priſon, Pillory, and Stocks, every Member of the Court, ſo failing, ſhall forfeit and pay ten dollars, one moiety to the Commonwealth, the other moiety to the Informer; to be recovered with coſts, by action of debt or information, in any Court of Record of this Commonwealth. And moreover, the Court ſo failing, ſhall be liable to the action of the Sheriff, from time to time, for all damages recovered againſt him, upon any eſcape for want of a ſufficient Priſon; and ſuch Sheriff or his Executors, or Adminiſtrators, ſhall and may ſue for the ſame by action of debt or information, brought in the General Court againſt the Juſtices ſo failing, or the ſurvivors of them, and upon recovery in ſuch ſuit, the Judges of the ſaid Court, are hereby empowered and required to proportion how much every particular Juſtice of the Court ſo failing, who ſhall be then living, and the Executors or Adminiſtrators of ſuch as ſhall be deceaſed, ſhall pay reſpectively, and to enter up judgment accordingly, whereupon one or more executions ſhall and may be iſſued.

Penalty for failing to keep a ſufficient priſon, &c.

Public jail in *Williamſburg* to be uſed as the jail thereof, and of James City county.

XIV. ALL perſons taken on civil or criminal proceſs in the County of *James City*, may be committed to the public Jail in the City of *Williamſburg*, in like manner as if the ſame was within the limits of the ſaid County; and the City of *Williamſburg* ſhall have a right to uſe the public Jail therein, as the Jail of the ſaid City, and the Diſtrict Jailor therein ſhall act as keeper of the Jail of the ſaid City.

Priſon rules to be aſſigned.

XV. THE Juſtices of every County and Corporation, ſhall be, and they are hereby empowered and required, to mark and lay out the Bounds and Rules of their reſpective County and Corporation Priſons, not exceeding ten acres of land, adjoining to ſuch Priſon, which Marks and Bounds ſhall be recorded, and renewed from time to time, as occaſion ſhall require; and every priſoner not committed for treaſon or felony, giving good ſecurity to keep within the ſaid Rules, ſhall have liberty to walk therein, out of the Priſon for the preſervation of his or her health, and keeping continually within the ſaid Bounds, ſhall be adjudged in Law a true priſoner.

Ducking-ſtool may be provided.

XVI. AND if the Court of any County or Corporation, ſhall at any time think fit, they are hereby authoriſed and empowered, at the charge of their County or Corporation, to cauſe a Ducking-Stool to be built in ſuch convenient place as they ſhall direct.

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XVII. ALL process issuing from such Courts to bring any person to answer in any suit in such Courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the Sheriff or Officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the Officer shall return the truth of the case. And if any original process be taken out within three days before the next Court day, such process shall be returnable to the next Court after the said three days, and not otherwise; and all process issued or returnable, in other manner than is herein before directed, shall be null and void. *Provided nevertheless*, that any Justice or Justices of Peace, by his or their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or some other Justice or Justices, or before the next Court, although there be not three days between the execution of such warrant and the return thereof.

Process to be executed three days before return day.

When returnable, if issued within three days before the next court day.

If issued or returnable in any other manner to be void.

Criminal cases excepted.

XVIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff, or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same, on the proper return day, in the next Court; and if such Defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued, as in other cases.

Process in suits against the Governor, Councillors, Judges and Sheriffs.

XIX. IN all actions to recover the penalty for breach of any penal Law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney, shall, on pain of having his suit dismissed with costs, indorse on the original writ, or subsequent process, the true species of action, that the Sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the Sheriff may take the engagement of an Attorney practising in the County Court, indorsed on the writ that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office on the first day after the end of the Court to which such process is returnable. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail; but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Justice of the Peace, in actions of trespass, assault and battery, trover, and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

In certain suits plaintiff to indorse on the writ the true species of action.

In which the sheriff may take the engagement of an attorney to appear for defendant; but shall not commit him for want thereof, or of bail.

Any justice may direct bail to be taken.

XX. IN all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be indorsed on the writ, as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail-bond to the Clerk's office before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery, as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge.

Directions to the sheriff where bail is required.

When bail may defend the suit.

How bail is to be given in detinue.

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Remedy against sheriff neglecting to return sufficient bail.

XXI. AND if the Sheriff or other Officer shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff or other Officer may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff or other Officer depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued; but the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

Exceptions to bail when to be made.

Defendants upon appearance may be ruled to give special bail.

XXII. AND upon appearance of the Defendant in any personal action, where the Plaintiff shall move that the Defendant may be held to special bail, the Court may, if they see cause, rule him to give bail accordingly, or commit him in custody of the Sheriff or other Officer till such bail be given; and the person and persons becoming special bail, shall be liable to the judgment and recovery against such Defendant, unless he render his body in execution in discharge of his bail.

No bail to be demanded of a resident in one county who is sued in another, until a return of *non est inventus*.

Proviso.

XXIII. NO bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one County in any other, until a *non est inventus* has been returned in the County or Corporation in which the Defendant resides, upon a *capias* issued in the same suit against such Defendant, and every writ issued contrary thereto without an indorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit* or *non sum informatus* thereon, but not afterwards. *Provided*, that no such writ issuing from the County or Corporation in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

Any justice may take recognizance of special bail.

XXIV. ANY Justice of the Peace, when the Courts are not sitting, may take recognizance of special bail in any action therein depending, which shall be returned by the Justice taking the same to the Clerk of the Court, before the next succeeding quarterly Court, to be filed with the papers in such action.

Exception to bail, how to be made.

XXV. IF the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken by a Justice out of Court, notice of such intended exception shall be given to the Defendant or his Attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken

The same proceedings against bail and sheriffs as in the District courts.

XXVI. THE same proceedings shall be had against the common bail and Sheriff, or other Officer in any suit, or either of them, their Executors or Administrators, and they or either of them may have the same remedy against the Defendant, or his Executors or Administrators, in the County and Corporation Courts at their quarterly sessions, as is directed to be had in any District Court in such cases.

Rules to be held monthly in clerk's office.
Rule days to be appointed by the courts.

XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common Law and in Chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the Clerk's office, on such days as the Courts at their respective quarter Sessions, shall appoint; which rules shall be distinctly entered in a book, to be kept for that purpose, and the Clerk shall be allowed the same fees for entering such rules, as if the same had been made in Court.

Rules to be given from month to month in the office; but may be set aside at the quarterly sessions.

XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the Clerk of the Court, in the same manner as rules are made and entered with the Clerks of the District Courts, in suits depending in them. *Provided nevertheless*, That the Court may at their quarterly Session next after any of the said rules and proceedings have been had in the Clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them may appear just and right.

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XXIX. WHERE any final judgment ſhall be entered up in the office againſt any Defendant or Defendants and their ſecurities, or againſt any Defendant or Defendants and Sheriff or other Officer, by default, execution may iſſue thereon after the next ſucceeding quarterly Court, unleſs the ſame be ſet aſide during ſuch Court, in like manner as office judgments in the Diſtrict Courts may be ſet aſide; and all office judgments ſo ſet aſide, ſhall be immediately put at the end of the iſſue docket. Office judgments when to be ſet aſide.

XXX. ON writs of *ſcire facias* for renewal of judgments, no judgment ſhall be rendered on the return of two nihils, unleſs the Defendant reſide in the County or Corporation, or unleſs he be abſent from the Commonwealth, and have no known Attorney within the ſame. But ſuch *ſcire facias* may be directed to the Sheriff or other Officer of any County or Corporation in this Commonwealth, wherein the Defendant or his Attorney ſhall reſide, or be found; which being returned ſerved, the Court may proceed to judgment thereon, as if the Defendant had reſided in the County or Corporation. Directions concerning writs of *ſcire facias* to revive judgments.

XXXI. THE Clerk ſhall proportion the cauſes upon the docket, from the firſt day of the Court to the ſixth, both incluſive, if in his opinion ſo many days will be expended in trying the cauſes ready for trial, and iſſue *ſubpœnas* for witneſſes to attend the days to which the cauſes ſtand for trial. He ſhall docket the cauſes in order as they are put to iſſue, and no cauſe ſhall be removed from its place on the docket, unleſs where the Plaintiff at the calling the ſame, be unprepared for trial, in which caſe, and no other, ſhall the cauſe be put at the end of the docket. Rules in docketing cauſes.

XXXII. AND for the better aſcertaining what proceſs may be ſued out, where the Sheriff or other Officer returns that the Defendant is not to be found in his bailiwick: *It is hereby further enacted*, That where any Sheriff, or other Officer, ſhall make ſuch return, the Plaintiff or Plaintiffs in any civil action, ſhall and may ſue out an attachment againſt the eſtate of ſuch Defendant, returnable as hereinbefore is directed for the returns of original and other ſubſequent proceſs thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the Plaintiff or Plaintiffs; and if the Sheriff or other Officer, ſhall return any goods by him attached, the Plaintiff ſhall file his declaration, and be entitled to a judgment for his whole debt, and the goods ſo attached ſhall remain in cuſtody of the Sheriff till ſuch judgment obtained, and then be ſold and diſpoſed of, in the ſame manner as goods taken in execution upon a writ of *fieri facias*; and if the judgment ſhall not be ſatisfied by the goods attached, the Plaintiff may have an execution for the reſidue. *Provided always*, that all goods ſo attached, ſhall and may be replevied by the Defendant's giving bond and ſecurity to the Sheriff or other Officer attaching the ſame, in like manner as by Law is directed on the execution of meſne proceſs, or by the Defendant's appearance, and putting in good bail, if ruled by the Court to give ſpecial bail. But no Sheriff ſhall return upon any writ to him directed, that the Defendant is not found in his bailiwick, unleſs ſuch Sheriff or his Officer, ſhall have actually been at the dwelling-houſe, or place of abode of ſuch Defendant, and not finding him ſhall have there left an atteſted copy of the ſame writ or proceſs; and where any Defendant ſhall be a known inhabitant of another County, and not of the County of that Sheriff to whom the proceſs ſhall be directed, ſuch Sheriff ſhall return the truth of the caſe, but not that the perſon is not found in his County, and thereupon ſuch proceſs iſſued from any County Court Clerk's office, as to ſuch Defendant, ſhall abate and be diſmiſſed. Proceſs where the defendant is not found. When the ſheriff may return that the defendant is not found.

XXXIII. THE Clerk of the Court ſhall carefully preſerve the declarations, pleas, evidences, and all other papers relating to any cauſe in Court, and they ſhall be all filed together in the office. Declarations, &c. to be preſerved in the clerk's office.

XXXIV. IN all caſes where the title or bounds of any eſtate in land is determined, the pleadings ſhall be all in writing, and ſhall be entered at large with the judgment thereupon, in particular books kept for that purpoſe only. In land cauſes pleadings to be in writing and complete records to be made up.

XXXV. AND for preventing errors in entering the judgments of the Court, the Juſtices, before every adjournment, ſhall cauſe the minutes of their proceedings to be publicly read by the Clerk, and corrected where neceſſary, and then the ſame ſhall be ſigned by the firſt Juſtice in commiſſion then ſitting; which minutes ſo ſigned, ſhall be taken in a book, and carefully preſerved among the records; and no proceedings or judgments of any Court, ſhall be of force, or valid, until the ſame be ſo read and ſigned. Minutes of proceedings to be read in court and ſigned.

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Suits shall not abate for want of form.

Costs upon a plea in abatement overruled.

XXXVI. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, that in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the Court to proceed upon the merits of the cause, the suit shall not abate for want of form; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the Plaintiff or Plaintiffs in such action shall recover against the Defendant or Defendants full costs, to the time of overruling such plea, including the costs of that Court, a Lawyer's fee only excepted.

Method of recovering debts by petition.

XXXVII. ANY debt or penalty, amounting to more than five dollars, or two hundred pounds of tobacco, and not exceeding twenty dollars, or eight hundred pounds of tobacco, may be demanded by petition to the Court of a County, City, or Borough. The Clerk of the Court shall draw the petition, stating therein how the debt became due, or by breach of what Act of Assembly the penalty was incurred, and shall issue a summons directed to the Sheriff or other proper officer, commanding him to summon the Defendant to appear and answer the petition; and the Defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the Court shall, and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just.

Detinue and trover for goods, or the value not exceeding twenty dollars shall be brought by petition. Plaintiff proceeding otherwise shall be nonsuit.

XXXVIII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the Defendant, and converted to his use, where the goods with the damages are not of greater value than twenty dollars, or eight hundred pounds of tobacco. Whosoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a Jury, that he might have brought a petition by this Act, shall be non-suit.

XXXIX. *AND be it further enacted*, That in all suits in the County or Corporation Courts in Chancery, the following rules and methods shall be put in practice and observed, to wit:

Rules to be observed in the prosecution of suits in chancery.

XL. THE Complainant shall file his bill on the first rule day after the return of the *subpœna* executed, or upon the first appearance of the Defendant, upon pain of having the same dismissed by the Defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

XLI. UPON the Complainant's dismissing his bill, or the Defendant's dismissing the same for want of prosecution, the Defendant shall recover his costs.

XLII. THE Complainant may amend his bill before the Defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the Defendant shall be put to any extraordinary costs, such costs shall be paid before the Complainant shall be at liberty to amend his bill.

XLIII. IF any Defendant shall not appear upon attachment returned executed, or being brought into Court upon any such process, shall obstinately refuse to answer the Complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly.

XLIV. THE Defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next Court; and if no answer be put in upon return of the attachment executed, the Complainant's bill shall be taken for confessed, and the matter thereof decreed.

XLV. AND if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the Complainant's bill shall be taken for confessed, and the matter decreed as aforesaid.

XLVI. NO process of contempt shall issue without oath made of the service of the *subpœna*, unless the same be returned served by a sworn Officer.

XLVII. IF the Defendant does not file his anſwer within three months after the Plaintiff ſhall have filed his bill, having alſo been ſerved with the *ſubpœna* at leaſt three months before the ſaid time for filing his anſwer, the Plaintiff may proceed to take his bill for confeſſed, and proceed in the ſame manner as in the caſe of an attachment returned executed, or he may have a general commiſſion to take depoſitions, or he may move the Court to bring in the Defendant to anſwer interrogatories, at his election, and proceed on to hearing in the two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, that the Court, for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing.

XLVIII. EVERY Defendant ſhall be at liberty to ſwear to his anſwer, before any Juſtice of the Peace.

XLIX. WHEN any croſs bill ſhall be preferred, the Defendant or Defendants in the firſt bill ſhall anſwer thereto, before the Defendant or Defendants in the ſecond bill ſhall be compellable to put in his or their anſwer to ſuch croſs bill.

L. THE Complainant ſhall reply or file exceptions, at the next rules after the Defendant's putting in his anſwer; and if the Complainant ſhall not then reply, nor file exceptions, his bill ſhall be diſmiſſed with coſts.

LI. WHEN the Complainant files exceptions againſt the anſwer of any Defendant or Defendants, as inſufficient, if the Defendant puts in a ſufficient anſwer at the next rules, the ſame ſhall be received without coſts, but if the Defendant's Attorney inſiſts on the ſufficiency of the anſwer put in, and neglects or refuſes to put in a ſufficient anſwer, or ſhall put in another inſufficient anſwer, the Plaintiff may ſet down his exceptions, to be argued the next Court; and after exceptions ſo filed, or any ſecond inſufficient anſwer put in, no further or other anſwer ſhall be received, but upon payment of coſts.

LII. AND if upon argument, the Complainant's exceptions ſhall be over-ruled, or the Defendant's anſwer adjudged inſufficient, the Complainant ſhall pay to the Defendant, or the Defendant to the Complainant, as the caſe ſhall be, ſuch coſts as ſhall be allowed by the Court.

LIII. UPON every ſecond anſwer adjudged inſufficient, coſts ſhall be doubled. If any Defendant ſhall put in a third inſufficient anſwer, which ſhall be ſo adjudged, ſuch Defendant ſhall be examined upon interrogatories, and committed till he ſhall perfectly anſwer thoſe interrogatories, and pay coſts.

LIV. IF the Defendant after proceſs of contempt, put in an inſufficient anſwer, which ſhall be ſo adjudged, the Complainant ſhall not be obliged to take out a new *ſubpœna*, but may go on to the attachment with Proclamation, as if no anſwer had been put in.

LV. WHERE the Complainant conceives ſufficient matter to be confeſſed by the Defendant's anſwer, he may ſet down the cauſe for, and proceed to hearing.

LVI. AFTER anſwer filed, and no plea in abatement to the juriſdiction of the Court, no exception for want of juriſdiction ſhall ever afterwards be made, nor ſhall the High Court of Chancery, or any other Court ever thereafter, delay or refuſe juſtice, or reverſe the proceedings for want of juriſdiction, except in caſes of controverſy reſpecting lands lying without the juriſdiction of ſuch Court, and alſo of infants and *femes covert*.

LVII. NO Defendant ſhall be admitted to put in a rejoinder, unleſs it be filed at the next rules after replication put in, but the Complainant may proceed to the examination of witneſſes.

LVIII. AFTER an attachment with Proclamation returned, no plea or demurrer ſhall be received, unleſs by order of Court, upon motion.

LIX. IF the Complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may ſet it down to be argued; or if he thinks the plea good,

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but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the Complainant shall have the same advantage as if the same plea were found false by verdict at the common Law.

LX. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the Defendant shall answer the allegations of the bill.

LXI. THE Complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the Complainant shall not proceed to have the same set down, before the second Court after plea or demurrer put in, the bill may be dismissed of course, with costs.

LXII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer shall be adjudged insufficient, and the Defendant shall answer at the next rules; but if adjudged good, the Defendant shall have his costs.

LXIII. IF any Defendant shall obstinately insist on a demurrer, and refuseth to answer, where the Court shall be of opinion that sufficient matter is alledged in the bill to oblige him to answer, and for the Court to proceed upon, the bill shall be taken for confessed, and the matter thereof decreed accordingly.

Issues to be tried when necessary.

LXIV. THE said Court in its discretion may direct an issue to be tried at their own bar whenever it shall be judged necessary.

Right of appeal, how to be exercised.

LXV. THE right of appeal from the County and Corporation Courts to the High Court of Chancery, and to the District Courts, shall be exercised in the same manner as prescribed in the Acts "*Reducing into one the several Acts concerning the High Court of Chancery*, and, "*Reducing into one the several Acts concerning the establishment, jurisdiction, and powers of District Courts.*"

When the plaintiff appeals, special bail bound to answer the judgment of the district court.

LXVI. IF the Plaintiff or Demandant appeals, then the special bail given by the Defendant or Tenant in the County or Inferior Court, shall also stand bound to answer the judgment of the District Court, and such Appellant shall give bond with security, in the sum of sixty-three dollars and thirty-three cents, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the Defendant or Appellee.

After issue joined no cause to be removed by *certiorari* or *habeas corpus*.

LXVII. NO writ or writs of *certiorari* shall be received or allowed by the Justices of any County Court or other Inferior Court, to whom any such writ or writs shall be directed and delivered, nor shall any cause be removed by *habeas corpus* after issue or demurrer joined, in the cause or causes depending in such Court or Courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth, or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the District Courts, or from the High Court of Chancery.

Rule respecting suits remanded.

Injunctions, how to be obtained.

LXVIII. BEFORE any injunction in Chancery shall be granted to stay proceedings at Law in any action, suit, or judgment whatsoever, in any County or Corporation Court, if the Court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the Court, or before some Magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond, with one or more sufficient securities, in the Clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the Plaintiff or Plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpœna* that the bond is filed.

LIX. THE proceedings of the ſaid Courts in common Law caſes, ſhall as nearly as may be, conform to the practice in the Diſtrict Courts. And in Chancery caſes, the ſame ſhall conform to the practice of the High Court of Chancery in like caſes, except in ſuch caſes as are or ſhall be otherwiſe particularly directed by any Act of the General Aſſembly.

Proceedings at common law ſhall conform to the practice of the diſtrict courts, and in chancery to that of the High Court of Chancery.

LXX. THE Clerks of the ſeveral County and Corporation Courts in this Commonwealth ſhall be, and they are hereby empowered and required, upon the application of any party who hath obtained, or ſhall obtain any judgment, decree or final order in ſuch Courts, to iſſue any legal or proper writ of execution or attachment as the caſe may require, as alſo to iſſue attachments againſt Executors, Adminiſtrators, or Guardians, who ſhall fail to account when ordered ſo to do by ſuch Court, directed to the Sheriff of the ſame, or any other County, provided there be fifteen days at leaſt, and not more than ninety days, between the teſte and return of ſuch writ.

Clerks ſhall iſſue executions on the application of any perſon obtaining judgment; and attachments againſt guardians, &c. failing to account.

LXXI. NOTHING in this Act before contained, ſhall be conſtrued to enlarge, alter or abridge any of the powers, juriſdictions, or conſtitutions of any Court of any City, Town, Corporation, or Borough, within this Commonwealth, but the ſame ſhall remain as if this Act had not been made; any thing herein to the contrary, or ſeeming to the contrary, notwithſtanding. *Provided always*, That the reſpective Corporation Courts, or Courts of Huſtings of any City, Town, or Borough, ſhall have juriſdiction only in ſuits or controverſies inſtituted between the reſpective inhabitants or citizens of ſuch City, Town, or Borough, and between one or more of the inhabitants of ſuch City, Town, or Borough, and any perſon or perſons not an inhabitant or inhabitants of this Commonwealth, and in either caſe only where the contract hath been made, or the cauſe of action hath accrued, within ſuch City, Town, or Borough; and in all ſuch ſuits and controverſies, their reſpective juriſdictions ſhall not be limited to any particular ſum, but ſhall be co-extenſive with the juriſdiction of the County Courts.

Powers of corporation courts not enlarged or abridged by this act.
What ſuits are cognizable therein.

LXXII. NOTHING in this Act before contained, ſhall be conſtrued to prejudice, or in any manner affect the charters of the City of *Williamſburg* and Borough of *Norfolk*, or either of them.

Charters of *Williamſburg* and *Norfolk* not to be affected by this act.

LXIII. NO perſon being a Member of any Corporation Court, Court of Huſtings, or Common-Councilman of any City, Town, or Borough whatſoever, within this Commonwealth, except Common-Councilmen of the City of *Williamſburg*, or Borough of *Norfolk*, ſhall, while a Member of ſuch Corporation Court, Court of Huſtings, or Common-Council, be capable of acting as a Juſtice of any County Court.

Magiſtrates of corporations and common-councilmen not to act as juſtices of any county.
Exception.

LXXIV. THE Clerks of the ſeveral County and Corporation Courts, ſhall annually, on or before the firſt day of *July*, tranſmit to the Auditor a liſt of all fines impoſed by their reſpective Courts within the next preceding year; and if no fine ſhall have been impoſed within ſuch period, the Clerk ſhall certify accordingly. Every Clerk failing to perform the aforeſaid duty, ſhall forfeit and pay one hundred and fifty dollars, to be recovered by the Auditor, on motion to the General Court, and applied to the uſe of the Commonwealth, provided ten days previous notice be given in writing of every ſuch motion.

Liſts of fines impoſed by the courts to be ſent to the auditor.

LXXV. ALL and every Act, clauſe and parts of Acts, within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Former acts repealed.

LXXVI. THIS Act ſhall commence and be in force, from and after the firſt day of *May*, one thouſand ſeven hundred and ninety-three.

Commencement of this act.

C H A P. LXVIII.

An Act reducing into one, the ſeveral Acts concerning the Adjournment and Places of Seſſion of certain Courts in certain Caſes.

[Paſſed the 17th of October, 1792.]

I. BE *it enacted by the General Aſſembly*, That ſo often as it ſhall appear neceſſary, it ſhall be lawful for the Governor, with the advice of the Council of State, by a Proclamation, bearing date one month at leaſt before the firſt day of meeting, and diſper-

Governor and Council may by proclamation change

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the place of holding the courts of appeals, and chancery, and the general court, and the time of their meeting.

sed throughout the several Counties, to cause the Court of Appeals, the High Court of Chancery, and the General Court, to meet at any convenient place within this Commonwealth, there to hold their respective Sessions immediately succeeding each Proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof, and such new day, and that the new day does not fall within the month next preceding the stated term.

Judges may adjourn if they think they cannot sit with safety.

II. IF after a Session begun, a majority of the Judges of the aforesaid Courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by Law, or the Proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding Term; and thereupon all business shall stand continued over.

Copies of the proclamations to be sent to the judges.

III. COPIES of any Proclamation of adjournment shall be sent under signature of the Governor, and Seal of the Commonwealth, to each of the Judges aforesaid, whose Court may be so adjourned.

No discontinuance if courts not held in usual terms.

IV. THERE shall be no discontinuance in any proceeding whatsoever, if the Courts aforesaid, or either of them, should not be holden in their usual terms.

Executive may direct courts to be held in other buildings, when those erected for the purpose are destroyed. Proviso.

V. IT shall in like manner be lawful for the Executive, whensoever any building or buildings duly appointed for the holding of any Court shall be destroyed, by Proclamation to direct such Court to be holden in any other building or buildings, until the building or buildings so destroyed shall be rebuilt. *Provided always*, that the Court of Appeals, High Court of Chancery, and General Court, shall continue to be holden in such case, in the City of *Richmond*; the District Courts in the Counties in which they are appointed to be holden by Law; and the County and Corporation Courts within their respective Counties and Jurisdictions.

Repealing clause.

VI. ALL and every Act and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXIX.

An Act to reduce into one, the several Acts declaring who shall be Conservators of the Peace within this Commonwealth.

[Passed the 17th of October, 1792.]

Who shall be conservators of the peace.

May demand of persons of evil fame, security of their good behaviour.

I. BE *it enacted by the General Assembly*, That the Judges of the Court of Appeals, High Court of Chancery, and General Court, shall be Conservators of the Peace throughout the Commonwealth; and the Justices of the Peace in each County and Corporation shall be Conservators of the Peace within their several Counties and Corporations, respectively; and the said Judges and Justices within the limits aforesaid, respectively, shall have power to demand of such persons as are not of good fame, sufficient surety and mainprize of their good behaviour.

Repealing clause.

II. EVERY Act, clause, and part of any Act, within the purview of this Act, shall be, and the same is hereby repealed.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the passing thereof.

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CHAP. LXX.

An Act to reduce into one, all Acts and Parts of Acts respecting County and Corporation Clerks.

[Passed the 2d of November, 1792.]

I. BE *it enacted by the General Assembly,* that every person hereafter admitted into office by any County or other Inferior Court, as Clerk or Deputy-Clerk of such Court, shall at the time of his admission, or appointment to such office, take the following oath:

Clerks of county and other inferior courts how qualified.

I, A. B *do swear that I will well and truly exercise the office of according to the best of my skill and judgment, making due entries and record of all orders, judgments, decrees, opinions or proceedings of the Court, and carefully filing and preserving in my office, all books and papers whatsoever, which shall be delivered me in charge, or otherwise come to my hands or possession by virtue of my said office; and that I will not wittingly or willingly commit any malfeazance of office, but in all things and at all times keep my said office free and accessible to every person having a right or claim to business therein, and faithfully execute the duties thereof, without favor, affection, or partiality.* So help me GOD."

And if any person shall presume to execute the office of Clerk or Deputy Clerk of any County, or other Inferior Court, without taking such oath, he shall forfeit and pay fifteen hundred dollars, and suffer one year's imprisonment without bail or mainprize.

Penalty for acting without qualifying.

II. IF any Clerk shall wittingly make any false entry, or rase, alter or change any record in his keeping belonging to his office, every such Clerk so offending shall be amerced and imprisoned at the discretion of a Jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed, by reason of any such false entry, rasure, alteration, or change, the party grieved may sue by writ of error, or otherwise according to Law, if he see it expedient for him.

How punished for making false entries or altering records. Party injured, how to be relieved.

III. EVERY Clerk of a County or other Inferior Court shall, at the time of his appointment and qualification as aforesaid, enter into bond, with security, to be approved of by the Court, in the penalty of three thousand dollars, payable to the Governor and his successors, for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or suffer to be carried or removed out of the County or Corporation, the records and papers of the Court whereof he is Clerk, or any part thereof, except in cases allowed by Law; which bond shall by such Clerk be transmitted within three months to the Clerk of the Court of the District in which the said County or Corporation may be, to be by him registered and preserved among the papers of his office, and may be prosecuted upon against any such Clerk and his securities, in the name of the Governor, or his successors, for the use of any person or persons who shall or may be injured, at his, her, or their costs and charges, who shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of the said bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs who shall sue on such bond, but may be put in suit and prosecuted from time to time, for the benefit and at the proper costs and charges of any party injured, until the whole sum of three thousand dollars, the penalty expressed in such bond, shall be recovered; and such Clerk failing to transmit such bond to the Clerk of the said District Court for the time being, within the term aforesaid, shall forfeit and pay three hundred dollars, or presuming to execute his office without entering into such bond, shall forfeit and pay six hundred dollars, and suffer three months imprisonment.

Bond and security to be given by clerks when appointed. Condition.

To be transmitted to the clerks of the District courts

Penalty on clerks for failure.

IV. IT shall not be lawful for the Court of any County or Corporation, or the Clerk of any such Court, to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the County or Corporation, except in cases of actual invasion or insurrection, where in the opinion of the Court the same will be endangered, or where for want of such opinion, occasioned by the suddenness of the alarm or danger, the Clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger

Records of County courts not to be removed out of the county, except in invasions or insurrections.

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ceases, or except also in other cases heretofore provided for by Law; any Member of a Court, or Clerk of the same, offending herein, shall forfeit and pay six hundred dollars.

Clerks appointed since *June* 1776, to reside in their counties.

V. EVERY Clerk appointed since the fourth day of *June*, one thousand seven hundred and seventy-six, shall reside within the County or Corporation in which he shall hold his office; and every Clerk of a County or Corporation Court, shall keep his office at the Court-house of the County in which he resides, or at such other convenient place, as the Court of the County or Corporation may direct, under penalty of being incapacitated therefrom, by information in the General Court. *Provided always*, that the Clerks of County and Corporation Courts may keep their several offices at any place within their respective Counties or Corporations, until otherwise directed by their Courts as aforesaid, and until an office built with brick and covered with tile, lead, or slate, with so much land as the Court shall judge necessary thereunto appurtenant, shall be provided for the use of the said Clerks and their successors, at the expence of their Counties or Corporations respectively, to be assessed in their levies.

Where the clerks of county courts shall keep their offices.

Penalties how to be recovered.

VI. ALL the penalties by this Act imposed, shall be prosecuted for, and recovered by bill, plaint, or information, in any Court of Record, one moiety to the use of the Informer, and the other moiety to the use of the Commonwealth.

When the clerks are to account for the public monies received by them.

VII. THE Clerks of the several Courts aforesaid, shall respectively, on or before the first day of *April*, and first day of *October*, in every year, account for on oath, and pay into the Public Treasury, all the monies which by an Act, intituled, "*An Act to reduce into one, the several Acts concerning the Public Revenue*," they are authorised to receive, after a deduction of five *per centum* therefrom, as a commission for the service thereby imposed, and in case of fraud herein by any Clerk, he shall, on conviction thereof, be deprived of his office.

Punishment in case of fraud therein.

How a clerk is to be appointed when the court is equally divided.

VIII. WHENSOEVER the Court of any County or Corporation within this Commonwealth shall be so divided in the appointment of a Clerk, that neither of the Candidates shall be elected, the High Sheriff of such County, or the presiding Magistrate of such Corporation Court, shall decide in favor of one of those Candidates, between whom the Court shall be divided.

Clerks offices to be annually inspected.

IX. THE Justices of the several County and Corporation Courts, shall annually appoint two or more fit persons of their number, to inspect the Clerk's office of their County or Corporation, and to report to the next Court, the condition in which they find the papers and Records.

Clerks to keep lists of executions in books, and constantly carry them to their court.

X. THE Clerk of every County or Corporation Court, shall enter in a docket or book to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered, and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his Court.

Repealing clause. Proviso.

XI. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this act.

XII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXI.

An Act concerning Counsel and Attornies at Law.

[Passed the 19th of November, 1792.]

Method of obtaining a licence.

I. FOR prescribing the mode of licensing Counsel and Attornies at Law, and regulating their practice, *Be it enacted by the General Assembly*, That before any person shall be licensed to practise as Counsel or Attorney at Law, in any of the Courts of this Commonwealth, he shall produce to those authorised hereby to grant licenses, a certificate

from the Court of that County, where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty-one years of age; and three of the Judges of the Superior Courts upon such certificates being produced to them, may, and they are hereby authorised and empowered, to grant to the person producing the same, a license under their hands and seals, to practise the Law in the Superior and Inferior Courts of this Commonwealth, if after examination they shall be of opinion that he is duly qualified.

Counsel and Attornies how qualified.

II. EVERY Counsel and Attorney before he shall be permitted to practise in any of the Courts of this Commonwealth, shall first produce his license in each Court where he intends to practise, and in the presence of such Court shall give assurance of fidelity to the Commonwealth, and shall moreover take the following oath of office, to wit:

I, *A. B. do solemnly swear, that I will honestly demean myself in the practice of the Law, as Counsel or Attorney, and will in all respects execute my office, according to the best of my knowledge and abilities.*

Penalty for practising without qualifying.

If any person shall presume to practise as Counsel or Attorney in any of the said Courts without a license first obtained as aforesaid, or without qualifying himself in such Court in the manner before directed, he shall for every such offence forfeit and pay the sum of one hundred and fifty dollars for every cause he shall prosecute or defend in any of the said Courts; one moiety to the use of the Informer, the other moiety to the use of the Commonwealth, to be recovered by action of debt in any Court of Record.

Who incapable of obtaining a license, or practising.

III. EVERY person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such license, or if licensed, the Judges of any Court, in which such person may practise, on proof thereof being made to them, may supersede his license.

Licenses of Counsel and Attornies may be suspended or vacated for mal-practices.

IV. IF the Judges of the General Court, either in the General Court or District Courts, from their own observation, detect any mal-practice in either of the said Courts, in any Counsel or Attorney of those Courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said Courts, or in the Court of any County or Corporation, the party accused shall be summoned to shew cause why an information should not be filed against him. And if such information should be ordered, and the Counsel or Attorney thus offending, should be found guilty of the matter therein charged, the said Judges either in the General Court or District Courts, as the case may happen, may either suspend his license, during a certain time, or vacate it altogether, as they shall judge most proper. The Judges of the Court of Appeals, and of the High Court of Chancery, shall have the like power, over Counsel and Attornies practising at the bars of their respective Courts, and in case an information should be directed by the Judges of either of the said Courts, they may cause a Jury to be impannelled to try such information, in like manner as informations are tried in the General Court, or in the District Courts. *Provided always*, That nothing herein contained shall be construed to hinder the Justices of any County Court, or other Inferior Courts, from causing any Attorney practising in such Courts to find security for his good behaviour, or fining such Counsel or Attornies for misdemeanor, or contempts offered to them, in the same manner as if this Act had never been made.

Power of County courts over Attornies practising therein.

Appellants Attorney in the Inferior court, not to prosecute the appeal under penalty.

V. NO Counsel or Attorney who shall prosecute any suit in an Inferior Court, in which an appeal may be prayed, shall be permitted to appear, or prosecute such appeal in any Superior Court, to which the same may be carried or removed; and any Counsel or Attorney who shall appear to, or prosecute such appeal in any Superior Court, shall forfeit the sum of sixty dollars, to be recovered with costs by action of debt in any Court of Record within this Commonwealth. The whole penalty shall be appropriated to him, who will sue for and recover the same.

Attornies to pay costs of suits dismissed for their non-attendance, and liable to party for damages.

VI. IF any suit shall be dismissed for the non-attendance of an Attorney practising either in the Superior or Inferior Courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismission, or any other neglect of his duty, to be recovered in any Court of Record within this Commonwealth.

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May be proceeded against in a summary way for money received for their clients.

VII. AND every Attorney receiving money for his Client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any Court of Record, in the same manner as Sheriffs are liable to be proceeded against for money received on executions.

Penalty on Attornies engaging to appear for defendants and failing.

VIII. IN all cases where the Sheriff is authorised by Law to take the engagement of an Attorney indorsed upon the writ, that he such Attorney will appear for the Defendant or Defendants, every Attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the Defendant or Defendants eight dollars, for which judgment shall be immediately entered, and execution may issue thereon.

Only two Attornies of a side.

Exception.

IX. THE Judges of the General Court, of the District Courts, and the Justices of the County or other Inferior Courts, shall not suffer in suits hereafter to be commenced, more than two Attornies to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation.

Power of Attorney to confess judgment before suit brought, void.

X. IF any Attorney or other person practising as an Attorney, shall presume to appear under any Power of Attorney made before action brought, for confessing or suffering judgment to pass by default or otherwise, for any Defendant in any Court of Record within this Commonwealth, such Attorney shall for every such offence forfeit and pay fifteen hundred dollars to such Defendant, for his own use, to be recovered with costs, by action of debt or information in any Court of Record, and moreover shall be liable to an action for damages at the suit of the party grieved.

No Justice or officer to appear as Attorney in the court whereof he is a member or officer. Exception.

XI. NO Justice of Peace, Sheriff, Under-Sheriff, or Clerk of any County Court, shall appear or plead as Attorney for any person or persons whatsoever, in the Court of the County whereof he is a Member, Officer or Clerk, except only as general Attorney for any person or persons not residing or being within this Commonwealth, under penalty of being fined by such Court in the sum of thirty dollars for every such offence, to the use of the same County towards lessening the levy thereof.

Lawyers fees.

In the General Court.

In the High Court of Chancery. In the District Courts.

In the County Courts.

XII. THE Lawyers in this Commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive before the suit or suits they are or shall be employed in, shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the General Court may demand and receive for an opinion or advice, where no suit is, or shall be brought and prosecuted or defended, by the Attorney giving such advice, but not otherwise, three dollars and fifty-eight cents; and in any suit other than where the title or bounds of land shall or may come in question, eight dollars and thirty-three cents; in those where the title or bounds of lands, shall or may come in question, sixteen dollars and sixty-six cents; in any suit in Chancery, the fee last mentioned; in any suit in a District Court, where the title or bounds of land shall or may come in question, five dollars; and in all other cases two dollars and fifty cents, except in causes transferred from the General Court, in which the fee shall be the same as in the General Court. And Lawyers practising in the County Courts, or other Inferior Courts, for services to be by them done in such Courts, may demand for an opinion or advice, where no suit is or shall be brought or prosecuted, or defended, by the Attorney giving such advice, but not otherwise, one dollar and sixty-seven cents; and in any suit at common Law, other than the actions hereafter mentioned, or by petition, two dollars and fifty cents; in all Chancery suits, or real, mixed, or personal actions, where the title or bounds of lands, shall or may come in question, five dollars; on a petition for a small debt, one dollar and twenty-five cents; and any Lawyer for attending a survey in the Country, for every day he shall attend, may demand three dollars and fifty-eight cents, which last mentioned fee may be taxed in the bill of costs. And every Lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above services, before he has performed the said services, or finished the said suits, shall forfeit and pay one hundred and fifty dollars for every offence; one half to the Governor for the time being, for the use of the Commonwealth, and the other half to the Informer, to be recovered by action of debt or information in any Court of Record within this Commonweath.

Not to recover more than the legal fees.

XIII. NO Lawyer in any suit to be brought for his fees or services, shall recover more than the fees above-mentioned, notwithstanding any agreement, contract, or obligation, made or entered into by the party against whom such suit shall be brought.

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XIV. THE Clerks of the High Court of Chancery and General Court respectively, shall tax in the bill of costs on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land shall or may come in question, a fee of sixteen dollars and sixty-six cents, and in all other cases in the said last mentioned Court, the Clerk shall tax a fee of eight dollars and thirty-three cents, where the party obtaining such decree or judgment employed a Lawyer, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and the Clerks of the respective District Courts, and County Courts, or other Inferior Courts, shall tax in the bill of costs in all judgments in any action where the title or bounds of land shall or may come in question, and on all decrees in Chancery, either when the Plaintiff shall recover or be non-suited, or where his suit shall be dismissed, five dollars; and in all other actions or suits, except such as are brought by petition in the County or other Inferior Courts, two dollars and fifty cents, for an Attorney's fee, if the party employed one, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and except also such suits as have been transferred from the General Court to the District Courts, in which last mentioned suits the same fees shall be taxed as if they had been determined in the General Court. And in all suits by petition, the Clerks of the said County Courts, and other Inferior Courts, shall tax in the bill of costs, where an Attorney shall be employed, one dollar and twenty-five cents as an Attorney's fee, against the party who shall be cast, except against Executors or Administrators. Lawyers fees to be taxed in the bills of costs.

XV. ALL and every Act and Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act. Repealing clause.

XVI. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. LXXII.

An Act reducing into one Act, the several Acts directing the Manner of proceeding in cases of Impeachment.

[Passed the 18th of October, 1792.]

I. BE *it enacted by the General Assembly*, that the process against any person impeached by Resolution of the House of Delegates, shall be summons, attachment, and distress, bearing teste, the first of them, the day of emanation, and the others, the return day of the process preceding, and shall be issued and signed by the Clerk of that Court where such impeachment is, by the Constitution, directed to be tried, as soon as such impeachment shall be notified to him by the Attorney-General, or any other person or persons appointed by the House of Delegates to prosecute the same. Process in impeachments.

II. A COPY of the articles of impeachment shall be delivered to the party accused, whensoever he shall require it, and the Court shall from time to time make such rules for compelling him to answer, and bring the matter to issue speedily, as to them shall seem reasonable. Copy of the articles to be delivered to the party accused. The court may hasten the issue and trial.

III. NO person shall be found guilty on an impeachment, but by a Jury, for which purpose, as soon as any matter of fact shall be put in issue, the Clerk of such Court shall issue a *venire facias* to the Sheriffs of the Senatorial District, wherein the person accused resides, commanding them to summon in their Counties to the first day of the next succeeding Court, in proportions as nearly equal as possible, twenty-four Jurors qualified according to Law for the trial of other criminal cases, which process may be repeated by order of the Court as often as it shall be necessary. The prosecutor for the Commonwealth, and the person accused, shall in open Court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a Jury, and shall try the impeachment, render a verdict, and proceed in the same manner as is prescribed in the None to be found guilty but by a jury. Jury, how to be summoned.

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case of an indictment in the District Courts. The Jurors shall have the same allowance, and be subject to like penalties as in the case of venire-men, attending District Courts. If twenty-four Jurors should not appear, by-standers may be summoned to make up the deficiency.

Party accused may have counsel.

IV. THE party accused may have one or more Counsel without petitioning the said Court.

May challenge jurors.

V. A PERSON impeached may for good cause, challenge a Juror either before or after the names shall be struck.

No impeachment shall be tried during the Session of the Assembly.

VI. NO impeachment shall be tried during the Session of the General Assembly, unless the party accused shall request it.

Persons found guilty on impeachments, how to be punished.

VII. A PERSON found guilty on impeachment, shall be either for ever disabled to hold any office under Government, or removed from such office, *pro tempore*, or subjected to such pains or penalties as any Act of the General Assembly may direct.

Repealing clause.

VIII. ALL and every Act, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXIII.

An Act concerning Grand Juries, Petit Juries, and Venire-men.

[Passed the 29th of November, 1792.]

Grand Juries to be summoned to every District court.

I. FOR the more regular enquiry into breaches of penal Laws, and trials of matters of fact in the several Courts of Justice within this Commonwealth, by Juries; *Be it enacted by the General Assembly*, That the Sheriff of each County, where a District Court is appointed to be holden, shall before every meeting of such Court, summon twenty-four of the most discreet Freeholders of the District, not being Ordinary Keepers, Constables, Surveyors of Highways, or Occupiers of Mills, to appear at the succeeding District Court, on the first day thereof, which the said Sheriff is hereby empowered to do, as well without his County as within the same; and the said twenty-four Freeholders, or any sixteen of them, shall be a Grand Jury, who shall be sworn to enquire of and present all Treasons, Murders, Felonies, or other misdemeanors whatsoever, which shall have been committed or done within the District, for which they are impannelled; and if a sufficient number of the said Freeholders should not attend on the first day of the Court, the Sheriff shall summon from the by-standing Freeholders, qualified according to Law, a sufficient number to form together with such of the first mentioned Freeholders as do attend, a Grand Jury.

Their duty.

By-standers may be summoned if all the jurors do not attend.

Grand jurors to be summoned to every quarterly session of the County courts.

II. THE Sheriff of each County, and the Serjeants of the Cities of *Williamsburg*, *Richmond*, and Borough of *Norfolk*, and other Corporations within this Commonwealth, shall before every Quarter Session of the County or Corporation Courts, respectively summon twenty-four Freeholders of his County or Corporation, not being Ordinary Keepers, Constables, Surveyors of Highways, or Owners or Occupiers of a Mill, out of which number shall be impannelled a Grand Jury of sixteen at the least, who shall be sworn to enquire into the breach of penal Laws, and make presentment of the offenders; but shall present such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by Law; and such Grand Juries having presented all such matters as come to their knowledge shall be discharged, always observing that when they make presentment, to write the name and surname of the Prosecutor or Informer, and the Town or County in which he shall reside, with his title or profession, under such presentment, for the more effectual prosecution thereof.

Their duty.

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III. AN oath in the following words, shall be administered to the foreman of a Grand Jury;

Oath to be administered to the foreman of every Grand jury:

YOU as foreman of this inquest, shall diligently enquire into, and true presentment make of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor, or affection, or for any reward, hope, or promise thereof, but in all your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you GOD.

The following oath shall be administered to the other Jurors:

To the other jurors.

THE same oath that A. B. your foreman, hath now taken before you on his part, you and each of you, shall well and truly observe and keep on your respective parts. So help you GOD.

IV. *PROVIDED*, That the Inhabitants of any Corporate Town, shall not be Grand Jurymen for the County in which such Corporate Town shall be.

Inhabitants of a corporate town not to act as Grand jurymen of the county.

V. EVERY such Grand Jury for a County or Corporation, shall and may present all offences made penal by the Laws of this Commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the Laws inflicting the same; and although the forfeiture or penalty thereby inflicted, shall not amount to five dollars, or two hundred pounds of tobacco.

What offences may be presented by Grand juries of County courts.

VI. IN a presentment to the County or Corporation Court, if the penalty of the offence exceed not five dollars, or three hundred pounds of tobacco, or to the District Court, if the penalty exceed not twenty dollars, or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be issued against the Defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the County or Corporation Court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the Court shall in a summary way, without a Jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to Law, and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment.

Method of prosecuting presentments in the County and District courts, where the penalties do not exceed certain sums.

VII. EVERY Freeholder summoned to appear on a Grand Jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the Courts respectively, not exceeding eight dollars, unless good cause be shewn to the contrary, at or before the next Court, to the use of the Commonwealth.

Penalty on a person summoned as a Grand juror and failing to attend.

VIII. GRAND JURORS shall be privileged from arrests in all cases, except Treason, Felony, and breaches of the Peace during their attendance at Court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all such arrests shall be void.

Grand jurors privileged from arrests.

IX. NO Grand Jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the District Courts where the penalty inflicted by Law is less than five dollars, or two hundred pounds of tobacco.

Rules in making presentments.

X. IN case of the sickness, death, or non-attendance of any Grand Juror or Grand Jurors, after he or they shall be sworn, it shall be lawful for the Court to cause others to be sworn in his or their stead.

Others may be sworn in the room of Grand jurors failing to attend after they are sworn.

XI. FOR the trial of all causes in the District Courts, and in the County and other Inferior Courts where a Jury may be necessary, the Sheriff or other Officer attending such Courts respectively, shall every day the Court sits, summon a sufficient number of bystanders, or others qualified as herein after is directed, to attend the Court that day, that out of them may be impannelled sufficient Juries for the trial of causes depending in such Courts; and if any person so summoned shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the Commonwealth.

Officer to summon jurors at every court.

Fine, if they fail to attend.

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Qualifications of jurors.

XII. NO person shall be capable to be of a Petit-Jury, for the trial of Treason, Felony, breach of the Peace, misprision of Treason, breach of a penal Law, or any other pleas of the Commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any Court of Record in this Commonwealth, or to be a Juror in any cause whatsoever, depending in the District or any other of the Superior Courts of the Commonwealth, unless such person be a freeholder, and possessed of a visible estate, real or personal, of the value of three hundred dollars at the least. No person shall be capable to be of a Jury for the trial of any cause whatsoever, in any County Court or other Inferior Court, unless he be possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at the least. No person under the age of twenty-one years, shall serve as a Juror. No Sheriff or other Officer shall, at any time summon or return any Juror, not qualified as this Act directs. *Provided always*, that no exceptions against any Juror, on account of his estate or age, or any other legal disability, shall be allowed after he is sworn.

In the Superior courts.

In County courts.

Infants not to serve as jurors.

Jurors shall not be challenged after they are sworn.

Juries *de medietate linguæ*.

XIII. JURIES *de medietate linguæ* may be directed by the Courts respectively.

Jurors how to give evidence.

XIV. JURORS knowing any thing relative to the point in issue shall disclose the same in open Court.

How punished for contempt.

XV. ANY Juror guilty of a contempt to the Court, may be fined by such Court in any sum not exceeding thirty dollars.

When the sheriff may converse with them.

XVI. NO Sheriff shall converse with a Juror, but by order of the Court, after the Jury have retired from the bar.

Penalty on sheriff for failing to summon a Grand Jury.

XVII. IF any Sheriff shall fail to summon a Grand-Jury, and return a pannel of their names as herein directed, he shall forfeit and pay twenty dollars, for the use of the Commonwealth.

Allowance to venire-men.

XVIII. EVERY venire-man summoned and attending the District Court for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses attending the said Courts, to be paid by the Public. If any person so summoned as a venire-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the Court, not exceeding six dollars, to the use of the Commonwealth.

Penalty on them for failing to attend.

Penalty on a juror taking any thing for giving his verdict.

XIX. IF any Juror upon any inquest whatsoever, shall take any thing by himself, or another, to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the Commonwealth.

Who may be summoned as jurors in *James* City county.

XX. THE Sheriff of the County of *James City* for the time being, and his Under-Sheriffs and Deputies, and every of them, shall be, and are hereby empowered and authorised, to summon Jurors of the inhabitants of *James City* County, in all and every part of the City of *Williamsburg*, as well in that part lying in the County of *York*, as *James City*, to serve on Juries on the days appointed for holding Courts in the said County of *James City*.

Repealing clause.

XXI. ALL and every Act and Acts, clauses and parts of acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

XXII. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXIV.

An Act directing the Method of proceeding against free Persons charged with certain Crimes; declaring the Mode of proceeding on Indictments, Informations, and Prosecutions on Penal Statutes; and for preventing vexatious and malicious Prosecutions, and moderating Amercements.

[Passed the 13th of November, 1792.]

Free persons charged with criminal offences, how, and by whom to be committed.

I. BE *it enacted by the General Assembly*, that when any person, not being a slave, shall be charged before a Justice of the Peace, with any criminal offence, which in the opinion of such Justice ought to be examined into by the County or Corporation Court, the said Justice shall take the recognizance of all material witnesses to appear before such County or Corporation Court, and immediately by his warrant commit the person so charged to the County or Corporation Jail, and moreover shall issue his warrant to the Sheriff of the County or Serjeant of the Corporation, requiring him to summon the Justices of the County or Corporation, to meet at their Court-house on a certain day, not less than five, nor more than ten days after the date thereof, to hold a Court for the examination of the fact, which Court shall consider, whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the County or Corporation, or must be tried in the District Court. If they shall be of opinion, that the fact may be tried in the County or Corporation, the prisoner shall be bound over to the next Grand-Jury, to be held for that County or Corporation, then to be tried, or, upon refusing to give sufficient bail, shall be remanded to the County or Corporation Jail, there to remain until such Court, or until he or she shall be bailed. If they shall be of opinion that the prisoner ought to be tried in the District Court, they shall take the depositions of witnesses, and bind such as they shall think proper, by recognizance to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to Jail, any two of the Justices by warrant under their hands and seals, shall direct the Sheriff or his Deputy, or Serjeant, to remove the prisoner, and commit him or her to the District Jail, there to be safely kept until he or she shall be discharged by due course of Law; by virtue of which warrant, the Sheriff or his Deputy, or Serjeant, as soon as may be, shall remove the prisoner, and deliver him or her with the warrant to the Keeper of the District Jail, who shall receive and keep him accordingly. And for enabling the Sheriff or his Deputy, or Serjeant, safely to convey and deliver such prisoner, the said two Justices, by their warrant, shall empower him, as well within his County as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the Law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant.

Examining court, how to be summoned, and what its powers.

How criminals shall be conveyed to the District jails.

When bailable before a justice of the peace, or a judge of the General Court.

II. IF such prisoner shall in the opinion of the Court be bailable by Law, they shall enter that opinion in their proceedings, and also the sums of money in which he and his bail ought to be bound, and he or she shall not be removed within twenty days after the examining Court, but shall and may be admitted to bail, before any Justice of the same County or Corporation within that time, or at any time afterwards before any Judge of the General Court. When any prisoner shall be thus admitted to bail by any Judge of the General Court, the Judge shall transmit the recognizance to the Clerk of the District Court, and give a warrant for the deliverance of the prisoner; and the warrant being put into the hands of the Officer in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause.

When bailable before two Judges of the General court.

III. ANY two Judges of the General Court when it is not sitting, may admit to bail a prisoner when they shall think him or her entitled thereto, and grant a warrant for his deliverance, notwithstanding the Justices before whom the examination was, shall have been of a different opinion.

Juries how formed.

IV. WHEN the Justices shall have determined that a prisoner ought to be tried for an offence in the District Court, the Clerk of the Court where such examination shall be had, shall issue a *venire facias* to be directed to the Sheriff or Serjeant, commanding him to cause twelve good and lawful men, freeholders of his County or Corporation, of the

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neighbourhood of the place where the fact shall have been committed, to come before the Judges of the District Court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said Sheriff or Serjeant, and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged, together with so many other good and lawful men of the by-standers, being freeholders within this Commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of such by-standers shall be a lawful Jury for the trial of the prisoner. No Justice of the Peace, or Member of a Corporation Court, who shall have committed any person for examination by the Court of his County or Corporation, or shall have been a Member of the examining Court, shall be sworn on the Petit-Jury impannelled for the trial of such person.

No Justice committing a criminal or sitting on the examing court to be sworn on the Petit Jury

Process against persons not in custody, indicted of treason or felony.

V. AFTER any person shall be indicted of Treason, or Felony, if he or she be not already in custody, the Sheriff shall be commanded to attach his or her body, by writ, or by precept which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias*, shall be immediately made returnable forthwith, in which the Sheriff shall also be commanded to seize his or her chattels, and safely to keep them; and if he return that the body is not found, and the indictee cometh not, an exigent shall be awarded, and the chattels shall be sequestered; but if he or she come, and yield himself or herself, or if he or she be taken before the return of the fourth *capias*, the goods and chattels shall be saved to him or her, otherwise they shall go and be vested as by Law is herein-after directed.

Prisoner to have copy of the indictment and pannel.

VI. IN all trials for such offences, the prisoner shall have a copy of the indictment, and of the pannel of the Jurors, who are to try him or her, whensoever he or she shall require it before trial or sentence.

Jurors how challenged by the prosecutor for the Commonwealth.

VII. WHENSOEVER an Inquest be about to be taken in any Court, in which Inquest the Commonwealth is a party, if he who appears and sues in behalf of the Commonwealth, will challenge any of the Jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the Court; and if such challenge be sufficient, the Juror shall be rejected, or if insufficient, he shall be admitted, and in either case the Inquest shall be proceeded in.

How many may be peremptorily challenged by the prisoner.

VIII. NO person arraigned for Treason, shall be admitted to a peremptory challenge above the number of twenty-four, nor shall any person arraigned for Murder or Felony, be admitted to a peremptory challenge above the number of twenty.

Prisoners to be tried at the first term.

IX. WHEN the Grand Jury shall have presented to the District Court, a bill of indictment against any person charged with Treason or Felony, the Court shall cause the offender to be arraigned and tried the same Term, if he be in the custody of the Jailor, or if he be bailed and forth-coming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next Term; and shall allow him Counsel to assist him at his trial if he desire it.

To be allowed counsel.

When they shall be bailed, or discharged if not tried.

X. WHEN any prisoner committed for Treason or Felony, shall apply to the Court the first day of the Term, by petition or motion, and shall desire to be brought to his trial before the end of the Term, and shall not be indicted in that Term, unless it appear by affidavit that the witnesses against him cannot be produced in time, the Court shall set him at liberty, upon his giving bail in such penalty, as they shall think reasonable, to appear before them at a day to be appointed of the succeeding Term. Every person charged with such crime, who shall not be indicted before, or at the second Term after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be detained for that cause only; and if be not tried at or before the third Term after his examination before the Justices, he shall be forever discharged of the crime.

Their witnesses, how to be summoned and paid for their attendance.

XI. IF a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining Court, or on the trial at the District Court, the Clerk of the said Court, or of the County or Corporation Court, (as the case may be) shall issue *Subpœnas* for such witnesses, who, being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

XII. EXECUTION of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner.

A sentence of death not to be executed in less than thirty days.

XIII. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no estate, or not sufficient to be found; and the Auditor is hereby directed to transmit to the Sheriff of the County where the estate of the said prisoner shall be, an account of the said expences, and the Sheriff shall distrain and be accountable for the same as for public taxes.

Charges of prosecution, to be defrayed out of the prisoner's estate if convicted.

XIV. TO the end that a certain and adequate mode may be fixed by Law for the regular payment of the expences attending the examination and trial of criminals in the County and other Inferior Courts, in all cases where such expences ought to be paid by the public: *Be it enacted*, that the several County and Corporation Courts within this Commonwealth, having jurisdiction in such examinations and trials, shall annually, in the month of *September* or *October*, cause to be certified to the Auditor of Public Accounts, all claims for expences accruing after the first day of *January*, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their respective Counties and Corporations, for conveying them to the District Jails for further trial, and for imprisonments for misdemeanor or breach of the Peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed; and the Auditor is hereby authorised and required to liquidate and adjust the said claims, and to grant warrants on the Treasury to the respective claimants for the amount of their claims.

Expences attending criminal prosecutions in the County courts how to be liquidated and paid.

XV. THE Clerks of the District Courts shall enter in books to be kept for that purpose, the names of Jurors attending for the trial of prisoners, and the names of witnesses appearing on behalf of the Commonwealth or the prisoner, with accounts of the days they shall have attended, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and certify such entries to the Auditor of Public Accounts.

Attendance of venire-men and witnesses in the District Courts to be certified to the Auditor.

XVI. WHERE any person shall be feloniously stricken or poisoned in one County or Corporation, and shall die of the same stroke or poisoning in another County or Corporation, the offender shall be examined according to Law, by the Court of the County or Corporation where such stroke was given, or poison administered, and he shall be tried in the Court of the District in which such County or Corporation lies.

Where offender to be examined and tried, when one feloniously stricken or poisoned in one County dies in another.

XVII. IN like manner an accessary to a Murder or Felony committed, shall be examined by the Court of that County or Corporation, and tried by the Court of that District in which he became accessary; and shall answer upon his arraignment, and receive such judgment, order, execution, pains, and penalties, as are used in other cases of Murder or Felony.

Where accessaries shall be examined and tried.

XVIII. WHENSOEVER in Treason or Felony any person shall stand mute on his arraignment, or persists after being admonished by the Court in not answering to the indictment, or in peremptorily challenging above the number of Jurors which by Law he may be allowed to challenge peremptorily, or shall be out-lawed, he shall be considered as convicted, and the same judgment, execution, and disabilities, shall take place and be awarded as if he had been convicted by verdict, or confession of the crime.

Prisoner standing mute, or peremptorily challenging more jurors than he legally may, or outlawed to be deemed convicted.

XIX. IF Treason or Felony be committed in a County or Corporation, different from that in which the Culprit shall be arrested, any Justice of that County or Corporation, in which he or she is arrested, may by his warrant cause the offender to be put into the custody of the Sheriff or Serjeant, to be by him conveyed to the County or Corporation where the offence was committed (and every Sheriff or Serjeant while he shall officiate in execution of this Act, may impress so many men, horses, and boats, as may be necessary for the safeguard and conveyance of the offender into such other County or Corporation) and there brought before some Justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the Sheriff or Serjeant for removing a criminal from one County or Corporation to another, shall be allowed the same fee *per* mile for such service as is allowed to Sheriffs for removing criminals from the County to the District Jail, to be paid in like manner as other expences for criminal prosecutions.

How criminals are to be conveyed to the Counties where the offences were committed.

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Copy of depositions and of the warrant of commitment to be sent to the attorney for the Commonwealth in the District.

XX. WHEN any person shall be removed to be tried for Treason or Felony, in the District Court, the Clerk of the Court for the County or Corporation from whence the prisoner is removed, shall immediately after the Court holden for his or her examination, transmit to the Attorney for the Commonwealth in the District Court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination.

Additions of defendants estate or degree, &c. in indictments.

XXI. IN indictments in which the exigent shall be awarded in the names of the Defendants in such indictments, additions shall be made of their estate or degree, or mystery, and of the Counties of which they were or be, or in which they be or were conversant, and if on the process upon the said indictments in which the said additions be omitted, any outlawries be pronounced, they shall be void, frustrate, and holden for none, and before the out-lawries be pronounced, the said indictments shall be abated by the exception of the party wherein the said additions be omitted.

Words "force and arms" in indictments, not essentially necessary.

XXII. IN any inquisition or indictment, the words "force and arms," or any particular words descriptive of any particular kind of force and arms, shall not of necessity be put or comprised.

No indictment to be quashed or judgment thereon reversed for omission of the name of any parish, town, &c.

XXIII. NO indictment for High Treason, misprision of Treason, Murder, or other Felony, or offence whatsoever, shall be quashed for the omission of the name of any Parish, Town, Ville or Hamlet, within any County of this Commonwealth, nor shall such omission after conviction on such indictment, be any cause to stay or arrest judgment, nor shall any judgment on such indictment be liable to be reversed on a writ of error by reason of such omission.

Rules respecting the filing of informations for trespasses or misdemeanors.

XXIV. NO information for a trespass or misdemeanor, shall be filed in any Court but by express order of the Court, entered on Record, nor unless the party supposed to be culpable, shall have failed to appear and shew good cause to the contrary, having been required to do so by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode; and the name and sur-name of the Prosecutor, and the Town or County in which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass or misdemeanor before it be presented to the Grand-Jury.

When the defendant shall recover his costs thereon.

XXV. IF the Grand-Jury to whom such a bill of indictment last mentioned, is preferred, shall not find the bill, or if the Defendant shall appear to shew cause against the filing such information, or to answer such information or indictment, and the Prosecutor shall not proceed further, or if the Defendant shall be found not guilty by the Petit-Jury, or a judgment shall be given for him, he shall recover his costs against the Prosecutor, with an Attorney's fee, if one was employed, and the allowances to witnesses to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases.

Fines to be assessed by Juries.

XXVI. IN every such information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the estate of the Defendant, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given against him upon the argument of a demurrer, or by his confession or default.

No fines to be imposed by sheriffs, &c. for default of common summons.

XXVII. NO Escheator, Sheriff, Coroner, or other Inquisitor, shall hereafter have power of amercement for default of common summons; save only the Judges of the General and District Courts, or the respective County or Corporation Courts.

Process on presentments for offences not capital.

XXVIII. UPON presentment made by the Grand-Jury of an offence not capital, the Court shall order the Clerk to issue a summons or other proper process against the person or persons so presented, to appear and answer such presentment at the next Court, and thereupon hear and determine the same according to Law.

Penalty on private persons suffering

XXIX. IF any private person having any prisoner in his keeping, arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested, escape by negligent

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keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made. criminals to escape.

XXX. NO Sheriff, Under-Sheriff, nor Escheator, nor any other person, shall take or seize the goods of any person accused or indicted of, or for, Treason, Murder, or other Felony, except only in such cases where he shall be commanded by the precept of *capias* herein before directed, to seize the chattels of a person not in custody, against whom an indictment for any such offence shall have been previously found, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt, to be pursued in any Court of Record. None to seize the goods of criminals until they are forfeited.

XXXI. WHENSOEVER any person shall happen to be attainted, convicted, or outlawed, of any Treason, Misprision of Treason, Murder, or Felony, whatsoever, there shall in no case be a forfeiture to the Commonwealth, of dower, or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by Law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood; any Law or usage to the contrary in any wise notwithstanding. Estates of persons convicted, attainted, or outlawed of treason, felony, &c. to descend and pass as if they had died intestate. No attainder to work a corruption of blood.

XXXII. SAVING to all and every other person and persons, bodies politic and corporate, their heirs and successors, and to every of them (other than to such offender as shall be attainted, convicted, or outlawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity, and hereditaments, as they or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction, or outlawry. Reservation of the rights of all persons, other than the offenders.

XXXIII. APPROVERS shall never be admitted in any case whatsoever. Approvers in no case to be admitted.

XXXIV. ALL actions, suits, bills, indictments, or informations, which shall be had, brought, sued, or exhibited upon any penal Act of Assembly, not affecting life or limb, made or to be made, shall be had, brought, sued, or exhibited within one year next after the offence committed against such penal Act, and not after. Actions &c. on penal laws within what time to be commenced;

XXXV. NO special bail shall be requirable in any suit brought upon a penal Law, unless by such Law, bail shall be expresly directed. When special bail shall be requirable in such actions.

XXXVI. IN all cases where a fine is laid upon the Justices of any County, one action may be brought against them all jointly. How suits may be brought for fines against Justices.

XXXVII. WHERE the penalty incurred by the breach of any penal Law shall not exceed twenty dollars, or eight hundred pounds of tobacco, the same may be sued for and recovered in the manner directed by Law for debts of like amount. Penalties not exceeding 20 dollars or 800 lbs. tobacco, how recoverable.

XXXVIII. *AND be it further enacted*, that in all indictments for assaults and batteries, and other offences not capital, now depending or hereafter to be prosecuted, it shall be lawful for the Court before whom the same shall be depending, upon good cause to them shewn, to compel the Prosecutor to find security for payment of the costs, and if such Prosecutor shall fail to give security accordingly, the indictment shall be dismissed with costs. Prosecutors for offences not capital, may be compelled to give security for costs.

XXXIX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act (except as herein after provided) shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this Act. Repealing clause. Proviso.

XL. THIS Act shall commence in force, from and after the passing thereof. Commencement of this act.

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CHAP. LXXV.

An Act declaring at what Time Restitution shall be made of Goods stolen.

[Passed the 22d of October, 1792.]

Courts before whom felons are convicted, may award restitution of the goods stolen by them.

I. BE *it declared and enacted by the General Assembly*, that if any Felon or Felons do rob or take away any money, goods, or chattels, from any person within this Commonwealth, whether from their person or otherwise, and thereof the said Felon or Felons be afterwards convicted or attainted, that then the party so robbed, shall be restored to his said money, goods, or chattels; and the Court before whom such Felon shall be convicted or attainted, shall have power to award, from time to time, writs of restitution accordingly.

Repealing clause.

II. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXVI.

An Act for Limitation of Actions; for preventing frivolous and vexatious Suits; concerning Jeofails, and certain Proceedings in civil Cases.

[Passed the 19th of December, 1792.]

Limitations of real actions.

I. BE *it enacted by the General Assembly*, that all writs of *formedon* in descender, remainder, or reverter of any lands, tenements, or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards.

Exception.

II. *PROVIDED nevertheless*, that if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards.

Rules in writs of right.

III. IN all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ.

Limitation of personal actions, except accounts between merchants, &c. Case, account trespass *quare clausum fregit*, debt, detinue, and replevin, to be brought within five years

IV. ALL actions of trespass *quare clausum fregit*, all actions of trespass, detinue, action sur trover, and replevin for taking away of goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors, or servants; all actions of debt, grounded upon any lending, or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say: The said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass,

debt, detinue, and replevin for goods and chattels, and the ſaid action of treſpaſs *quare clauſum fregit*, within five years next after the cauſe of ſuch action, or ſuit, and not after; and the ſaid actions of treſpaſs, of aſſault, battery, wounding, impriſonment, or any of them, within three years next after the cauſe of ſuch actions or ſuits, and not after; and the ſaid action upon the caſe for words, within one year next after the words ſpoken, and not after.

after the cauſe of action accrued. Treſpaſs, aſſault, battery, wounding and impriſonment, in three years. Slander within one year.

V. JUDGMENTS in any Court of Record within this Commonwealth, where execution hath not iſſued, may be revived by *ſcire facias*, or an action of debt brought thereon, within ten years next after the date of ſuch judgment, and not after; or where execution hath iſſued and no return is made thereon, the party in whoſe favor the ſame was iſſued ſhall and may obtain other executions, or move againſt any Sheriff or other Officer, or his or their ſecurity, or ſecurities, for not returning the ſame for the term of ten years from the date of ſuch judgment, and not after.

Within what time the plaintiff muſt proceed on a judgment on which execution hath not iſſued; when it hath iſſued, but hath not been returned.

VI. *PROVIDED*, That if any perſon or perſons entitled to ſuch judgment, where execution hath not iſſued, or where execution hath iſſued, and no return made (in either caſe) ſhall be, or were under the age of twenty one years, *feme covert*, *non compos mentis*, impriſoned, or not within this Commonwealth at the time of ſuch judgment being awarded, whether execution hath iſſued thereon or not, every ſuch perſon, his or her heirs, executors, or adminiſtrators, ſhall and may, notwithſtanding the ſaid ten years are or ſhall be expired, have the benefit of ſaid judgment where no execution hath iſſued by reviving the ſame by *ſcire facias*, or by action of debt, and where execution hath iſſued and no return made, every ſuch perſon or perſons, his or her heirs, executors, or adminiſtrators, may have the benefit of other executions, or may move againſt any Sheriff or other Officer, or his or their ſecurity, or ſecurities, for the ſame within five years after ſuch diſabilities removed, and not after.

Proviſo in favour of infants *femes covert*, perſons *non compos*, impriſoned, or out of the ſtate.

VII. ALL actions or ſuits founded upon any account for goods, wares, and merchandiſe ſold and delivered, or for any articles charged in any ſtore account, ſhall be commenced and ſued within one year next after the cauſe of ſuch action or ſuit, or the delivery of ſuch goods, wares, and merchandiſe, and not after; except that in caſe of the death of the creditors or debtors, before the expiration of the ſaid term of one year, the further time of one year from the death of ſuch creditor or debtor, ſhall be allowed for the commencement of any ſuch action or ſuit.

On ſtore accounts within one year.

VIII. AND to prevent impoſition or deception herein, the reſpective time or date of the delivery of the ſeveral articles charged in any ſuch account, or any receipt taken for the delivery of them, ſhall be particularly ſpecified. And if any merchant or trader ſhall wilfully poſt-date, any article or articles in ſuch account, or the receipt taken for the delivery of them, he ſhall forfeit and pay ten-fold the amount of the article or articles, or of the receipt taken for the delivery of them, ſo poſt-dated, to be recovered with coſts in any Court of Record, by petition, where the penalty incurred ſhall be under ſixteen dollars and ſixty-ſix cents, or amounts to that ſum only, and by action of debt or information, where the penalty ſhall be more than ſixteen dollars and ſixty-ſix cents, to the Informer, where the Informer proſecutes, or to the Commonwealth, where the proſecution ſhall be firſt inſtituted on the Public behalf.

In ſtore accounts the dates of the delivery of the articles to be ſpecified. Penalty for poſt-dating ſuch accounts.

IX. AND to prevent any doubt in the conſtruction hereof, it is hereby declared, that the before mentioned limitation of one year, ſhall take place and be computed, from the reſpective dates or times of delivery of the ſeveral articles entered or charged in any ſuch account; and that all ſuch articles as ſhall have been of more than one year's ſtanding when the action or ſuit was commenced, ſhall be diſallowed and rejected, and verdict ſhall be given, or judgment rendered for no more than the amount of ſuch articles as appear to have been actually charged or delivered within one year next before the commencement of the ſuit as aforeſaid.

Limitation to commence from the reſpective dates or delivery of the articles. Verdict or judgment to be given only for what was delivered within the year.

X. *PROVIDED neverthleſs*, That if in any of the ſaid actions or ſuits, judgment be given for the Plaintiff, and the ſame be afterwards reverſed by error, or a verdict paſs for the Plaintiff, and upon matter alledged in arreſt of judgment, the judgment be given againſt the Plaintiff, that he take nothing by his plaint, writ or bill, in all ſuch caſes the

Proviſo within what time plaintiff may re-commence his action where the

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Judgment is arrested or reversed.

party Plaintiff, his heirs, executors, or administrators (as the case shall require) may commence a new action or suit, from time to time, within one year next after such judgment reversed, or such judgment given against the Plaintiff, and not after.

In the computation of time under the act of limitations, certain periods not to be accounted part thereof.

XI. *PROVIDED always*, That in all questions which may arise in any Court of Record upon any Act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of *April*, one thousand seven hundred and seventy-four, and the twelfth day of *April*, one thousand seven hundred and seventy-eight, and between the first day of *January*, one thousand seven hundred and eighty-one, and the fifth day of *January*, one thousand seven hundred and eighty-two, and between the fifth day of *May*, one thousand seven hundred and eighty-three, and the twentieth day of *October*, in the same year, shall not be accounted any part thereof, so as to bar such action, entry, or evidence.

Infants, *femes covert*, persons *non compos*, imprisoned, beyond seas or out of the country may bring suit within the time limited after such impediments removed;

XII. *PROVIDED also*, That if any person or persons that is or shall be entitled to any such action of trespass, detinue, action sur trover, replevin, actions of account, actions of debt, actions of trespass, for assault, menace, battery, wounding, or imprisonment, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond the seas, or out of the Country, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited after their coming to, or being of full age, discovert, of sane memory, at large, and returned from beyond the seas, or from without this Country, as by other persons, having no such impediment, should be done.

Except persons out of the country bringing suits for goods sold by their factors.

XIII. *PROVIDED always*, That all suits hereafter brought in the name or names of any person or persons residing beyond the seas, or out of this Country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor, or factors, shall be commenced and prosecuted within the time appointed and limited by this Act, for bringing the like suits, and not after, notwithstanding the saving herein before contained, to persons beyond the seas at the time their causes of action accrued. *Provided nevertheless*, that if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor, to commence and prosecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with such factor.

Proviso.

In what cases the defendants shall not have the benefit of this act.

XIV. *PROVIDED also*, That if any person or persons, defendant or defendants to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the Country, or the County where he or they do or shall reside, when such cause of action accrued, or by any other indirect ways or means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all, or any of the aforesaid actions within the respective times limited by this Act, that then and in such case, such defendant or defendants are not to be admitted to plead this Act in bar to any of the aforesaid actions; any thing in this Act in any wise to the contrary notwithstanding.

XV. *PROVIDED also*, That this Act shall not extend to any action which shall be commenced against any Master or Commander of a Ship or Vessel, who shall discharge or cause to be put on shore any sick or disabled sailor belonging to his Ship or Vessel, or any servant without taking due care for their maintenance and cure, or carrying any debtor, servant, or slave out of this Commonwealth contrary to Law.

When the plaintiff shall not recover costs.

XVI. AND for the relief of the good people of this Commonwealth against causeless and vexatious suits, and for the better enabling them to recover their just rights. *Be it enacted*, that in all actions of assault and battery, and slander, commenced and prosecuted in any District Court, if the Jury find under the sum of sixteen dollars and sixty-six cents, and in the like actions commenced and prosecuted in any County Court, if the Jury find under six dollars and sixty-six cents, the plaintiff in either case, shall not recover any costs.

Where no more costs than damages.

XVII. AND in all actions of trespass, and all other personal actions, where the Court before whom the trial shall be, shall not be satisfied, and enter upon the record, that the freehold, title, or interest of land mentioned in the Plaintiff's declaration, was or might

have been in question, or that the trespass was wilful or malicious, if the Jury find under six dollars and sixty-six cents, the Plaintiff shall not recover more costs than damages; and if more costs are awarded, the judgment shall be void, and shall be amended upon a motion at any time, by the Court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him. And where several persons shall be made Defendants in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every Defendant so acquitted shall have and recover his costs of suit in like manner as if a verdict had been given against the Plaintiff or Plaintiffs and acquitted all the Defendants, unless the Court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for making such person or persons Defendant or Defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the Defendant, he shall recover his costs against the Plaintiff, and have execution for the same.

Remedy where more costs shall be awarded. Where the defendant shall have his costs.

XVIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to Executors or Administrators, in such cases where by the Law they are not liable to the payment of costs of suit.

Exception as to executors or administrators.

XIX. AND in all actions of trespass *quare clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence or involuntary, the Defendant or Defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to join issue; and if the said issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be non-suited, the Plaintiff or Plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

In trespass *quare clausum fregit*, if the defendant pleads a disclaimer and involuntary trespass with tender of amends if it be found for the defendant, or the plaintiff be non-suited, he shall be barred.

XX. IN all actions where the Plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate, if the same might be originally prosecuted or maintained by the Executors or Administrators of such Plaintiff; and if the Defendant die after such interlocutory judgment, and before final judgment, such action shall not abate, if the same were originally maintainable against the Executors or Administrators of such Defendant, but the Plaintiff (or, if he be dead, after such interlocutory judgment, his Executors or Administrators) shall and may have a *scire facias* against the Defendant, if living, after such interlocutory judgment, (or, if he died after, against his Executors or Administrators) to shew cause why damages in such action should not be assessed, and recovered by the Plaintiff or Plaintiffs; and if such Defendant, or his Executors or Administrators, shall appear at the return of such writ, and not shew or alledge any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned, that the Defendant, or his Executors or Administrators, had nothing whereby to be summoned, or could not be found in the County, shall make default, a writ of enquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said Plaintiff, his Executors or Administrators prosecuting such writ or writs of *scire facias*, against such Defendant, his Executors or Administrators. And if there be two or more Plaintiffs or Defendants, and one or more of them should die, if the cause of action should survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the writ or action shall proceed, at the suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants. And in all actions, real, personal and mixed, if either party should die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

Where a suit shall not abate by the death of either party

XXI. IN all actions upon any bond, or on any penal sum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the Plaintiff or Plaintiffs may assign as many breaches as he or they shall think fit; and the Jury, upon trial of such action or actions, shall and may assess damages for such of the breaches as the Plaintiff shall prove to have been broken, and on such verdict the like judgment shall be entered

Rules in actions for non-performance of covenants, &c.

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as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the Plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a Jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the Plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the Plaintiff, his Executors and Administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the Defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the Plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the Defendant shall bring into Court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the Defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar.

On bonds for payment of money.

In other actions of debt.

XXII. ALL powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this Commonwealth, before action brought, shall be, and are hereby declared to be absolutely null and void.

Powers of attorney for confessing judgments and releasing errors before suit brought, void.

XXIII. EVERY action at common Law, or suit in equity, commenced in the name of a person not residing in *Virginia*, unless he be employed abroad in the service of the Commonwealth, or of the *United States* of *America*, shall be dismissed, if security be not given with the Clerk of the Court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall at any time during such non-residence, have been given to the demandant, or Plaintiff, or his Attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the Tenant or Defendant, and also of the fees which will become due to the Officers of the Court.

Suits brought, by persons residing out of the state to be dismissed, if security be not given for the costs.

XXIV. ACTIONS of account shall and may be brought and maintained against the Executors or Administrators of every guardian, bailiff and receiver, and also by one Joint Tenant or Tenant in Common, his Executors or Administrators, against the other as bailiff, for receiving more than comes to his just share or proportion, and against the Executors or Administrators of such Joint Tenant, or Tenant in Common.

Actions of account may be brought against executors or administrators of guardians, bailiffs, and receivers, and by one joint tenant or tenant in common against the other.

XXV. PROCESS in all real actions, other than writs of right, shall be according to the course of the common Law, except that the returns shall be according to the Laws of this Commonwealth, but all essoins, views and vouchers be, and are hereby taken away; and after one imparlance, unless the Tenant shall plead non-tenure, joint tenancy, or several tenancy, in abatement, and then, after such plea shall be over-ruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next Court by twelve Jurors, to be summoned, tried, and sworn as in all other actions. And to remove all delays and groundless pretences in saving the default of the Tenant, no excuse shall be admitted but non-summons; and such excuse being allowed, he may imparle, and at the next Court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid.

Process in real actions.

XXVI. NO judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of Attorney, or for the appearance of either party, being under the age of twenty-one years, by Attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into Court; or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quaintity of merchandise, day, month, or year, in the de-

Judgments not to be reversed for certain defects in the process or pleadings.

claration or pleading, (the name, sum, quantity or time being right in any part of the Record or proceeding) or for omission of the averment, "this he is ready to verify," or, "this he is ready to verify by the Record," or for not alledging "as appeareth by the Record," or for omitting the averment of any matter, without proving which, the Jury ought not to have given such verdict, or for not alledging that the suit or action is within the jurisdiction of the Court, or for any informality in entering up the judgment by the Clerk; neither shall any judgment entered upon confession, or by *nil dicit*, or *non sum informatus*, be reversed, nor a judgment after enquiry of damages be stayed or reversed for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict.

What defects to be regarded in case of demurrer.

XXVII. WHERE a demurrer shall be joined in any action, the Court shall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what shall be specially alledged in the demurrer, as causes thereof, unless something so essential to the action or defence, as that judgment according to Law, and the very right of the cause cannot be given, shall be omitted.

When a possession of part of lands shall not be deemed a possession of the whole.

XXVIII. IN controversies affecting lands, tenements, or hereditaments, possession of part shall not be construed a possession of the whole, when an actual adverse possession can be proved.

Actual possession not necessary to maintain a writ of right.

XXIX. ACTUAL possession need not be proved to maintain a writ of right.

Private Acts of Assembly may be given in evidence.

XXX. PRIVATE Acts of Assembly may be given in evidence without pleading them specially.

Jury may take with them papers, though not under seal.

XXXI. PAPERS read in evidence, though not under seal, may be carried from the bar by the Jury.

Interpretors may be sworn.

XXXII. INTERPRETERS may be sworn truly to interpret when necessary.

Rule respecting non-suits.

XXXIII. EVERY person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the Jury retire from the bar.

How many new trials may be allowed.

XXXIV. NOT more than two new trials shall be granted to the same party in the same cause.

Exceptions to declarations in ejectment when to be made.

XXXV. AFTER issue joined in an ejectment on the title only, no exception of form or substance shall be taken to the declaration in any Court whatsoever.

Scrolls by way of seals valid.

XXXVI. ANY instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation as if it were actually sealed.

What omissions in verdicts in detinue may be remedied and how.

XXXVII. IF in detinue the verdict shall omit price or value, the Court may at any time award a writ of enquiry to ascertain the same. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the Plaintiff shall be barred of his title to the things omitted.

Where one of several counts is faulty, and there are general damages, the verdict shall be good.

XXXVIII WHERE there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the Defendant may apply to the Court, to instruct the Jury to disregard such faulty count.

Executions & other process duly served good, though not directed to any sheriff.

XXXIX. AN execution, writ, or other process appearing to be duly served in other respects, shall be deemed good, although it be not directed to any Sheriff.

Any judge of the General Court or justice may take special bail.

XL. Any Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail, in any action depending in any Court of Record within this Commonwealth, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action: The form of which recognizance shall be in the following words, to wit:

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Form of the recognizance of special bail.

" County to wit: *MEMORANDUM, That upon the day of , in the year* , E. F. *of the County of , personally appeared before me (one of the Judges of the General Court, or a Justice of the County aforesaid,* as the case may be) *and undertook for* C. D. *at the suit of* A. B. *in an action of now depending in the* [naming the Court where the suit is depending] *that in case the said* C. D. *shall be cast in the said suit, he the said* C. D. *will pay and satisfy the condemnation of the Court, or render his body to prison, in execution for the same, or that he the said* E. F. *will do it for him.*"

XLI. THE person taking such bail as aforesaid, shall, if required, at the same time, deliver to the person or persons acknowledging the recognizance aforementioned, a bail piece, in the words and form following, to wit:

Bail piece.

" *County to wit:* C. D. *of the Parish of in the County aforesaid, is delivered to bail, on a* cepi corpus *unto* E. F. *of the Parish and County aforesaid, at the suit of* A. B. *the day of , in the year* "

How notices may be given where no particular mode is prescribed by Law.

XLII. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good, if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place, at the dwelling-house, or other known place of residence of such person.

A judgment by confession equal to a release of errors.

XLIII. A JUDGMENT on confession, shall be equal to a release of errors.

Laws of costs not to be interpreted as penal laws.

XLIV. THE law of costs shall not be interpreted as penal laws.

Regulations in this act to be observed in all the courts of this Commonwealth.

XLV. FOR removing all doubts concerning the Courts to which this act may apply, *Be it further enacted,* That all things herein contained, shall be the rules of decision and proceeding in all Courts whatsoever within this Commonwealth.

Repealing clause.

XLVI. ALL and every Act or Acts, and all parts of Acts containing any thing within the purview of this Act, shall be, and are hereby repealed.

Proviso.

XLVII. *PROVIDED,* That nothing herein contained shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

Commencement of this act.

XLVIII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXVII.

An Act for reducing into one, all Acts and Parts of Acts, concerning Suits brought for Sterling Money, and for ascertaining the Rate of Exchange, and Damages upon Protested Bills of Exchange.

[Passed the 12th of November, 1792.]

Preamble.

I. WHEREAS bills of exchange are accounted in all payments as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by making the same a sufficient security, and expediting the recovery of money thereupon:

Fifteen per cent damages and five per cent per annum, interest to be paid on protested bills.

II. *BE it enacted by the General Assembly,* That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for non-acceptance or non payment, the drawer or indorser shall be subject to the payment of fifteen *per centum* damages thereon, and the bill shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid.

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How ſuits may be brought & judgment entered thereon.

III. IT ſhall be lawful for any perſon or perſons, having a right to demand any ſum of money upon a proteſted bill of exchange, to commence and proſecute an action of debt for principal, damages, intereſt, and charges of proteſt, againſt the drawers or indorſers jointly, or againſt either of them ſeparately; and judgment ſhall and may be given for ſuch principal, damages and charges, and intereſt upon ſuch principal, after the rate aforeſaid to the time of ſuch judgment, and for intereſt upon the ſaid principal money, recovered after the rate of five *per centum per annum*, until the ſame ſhall be fully ſatisfied.

In all bills of exchange is to be expreſſed what ſum in current money was paid therefor.

IV. IN all bills of exchange given for any debt due in current money of this Commonwealth, or for current money advanced and paid for ſuch bills, the ſum in current money that was paid, or allowed for the ſame, ſhall be mentioned and expreſſed in ſuch bill, and in default thereof, in caſe ſuch bill ſhall be proteſted, and a ſuit brought for the recovery of the money due thereby, the ſum of money expreſſed in ſuch bill, ſhall be held and taken as current money, and judgment ſhall be entered accordingly; and if any perſon ſo receiving or purchaſing a bill of exchange, ſhall expreſs, or cauſe to be expreſſed therein, any other than the true ſum in current money allowed for the ſame, every ſuch perſon ſo offending, ſhall forfeit and pay to the perſon drawing ſuch bill, the whole ſum of money for which ſuch bill ſhall be drawn, to be recovered with coſts by action of debt, in any Court of Record within this Commonwealth, wherein the ſame ſhall be cognizable.

Penalty for inſerting any other ſum.

V. AND that people may not be injured for want of due proof of the rate of exchange ſo given or allowed for ſuch bills, where the ſame is not truly expreſſed therein, ſuch bills being uſually negotiated in ſecret, and with ſuch caution that it can ſeldom be detected in the ordinary courſe of evidence: *Be it further enacted*, That it ſhall and may be lawful for any drawer of ſuch bill of exchange, to exhibit a bill in Chancery, in any Court of Record in this Commonwealth, having Chancery juriſdiction, againſt the perſon to whom ſuch bill ſhall be payable, to compel him to diſcover upon his corporal oath, the true difference of exchange given or allowed for ſuch bill, and in that caſe if it ſhall appear that a leſs rate of exchange was given or allowed than is expreſſed, the drawee of ſuch bill ſhall be diſcharged from the penalty herein before inflicted for the ſame, but ſhall be decreed to pay to the drawer, ſo much money as the rate of exchange allowed, ſhall be leſs than the rate of exchange expreſſed, together with the damages of fifteen *per centum* thereon, and coſts of ſuit, to the time of ſuch decree.

Drawer may compel the drawee by bill in chancery, to diſcover the true rate of exchange.

VI. IN any action which hath been or ſhall be commenced, and is or ſhall be depending for the recovery of any ſterling money, in any Court of Record within this Commonwealth, wherein the Plaintiff or Plaintiffs ſhall recover, ſuch Court ſhall have power, and are hereby directed by rule to be entered at the foot of their judgment in ſuch action, to order ſuch judgment to be diſcharged or levied in current money, at ſuch a difference of exchange as they ſhall think juſt; any law, uſage, or cuſtom, to the contrary in any wiſe, notwithſtanding.

Judgment for a ſterling debt to be diſcharged at ſuch a difference of exchange as the court ſhall think proper.

VII. IF any perſon ſhall in any ſuit hereafter to be brought, declare for ſterling money, except where the debt or duty is payable in ſterling, the Plaintiff in every ſuch ſuit ſhall be non-ſuited; and if any perſon ſhall after the paſſing of this act, take a bond, obligation, or note payable in ſterling for any current money debt, and ſhall bring ſuit thereon, the Court before whom ſuch ſuit ſhall be tried, upon proof being made thereof, ſhall order the judgment to be diſcharged or levied in current money, at the rate of thirty-three and one third *per centum*.

Where a perſon may declare for ſterling money, & where not. Judgments on bonds, &c. payable in ſterling, for current money debts, at what rate of exchange to be diſcharged.

VIII. ALL and every Act or Acts, within the purview of this Act, ſhall be, and are hereby repealed. *Provided*, That nothing herein contained, ſhall be conſtrued to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the ſame ſhall remain in the ſame condition as if this Act had never been made.

Repealing clauſe. Proviſo.

IX. THIS Act ſhall commence in force, from and after the paſſing thereof.

Commencement of this act.

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CHAP. LXXVIII.

An Act, directing the Method of proceeding in Courts of Equity against absent Debtors, or other absent Defendants, and for settling the Proceedings on Attachments against absconding Debtors,

[Passed the 26th of December 1792.]

Preamble.

I. WHEREAS creditors have experienced great difficulties in the recovery of debts due from persons residing without the jurisdiction of this Commonwealth, but who have effects here sufficient to satisfy and pay such debts: For remedy whereof,

Courts of equity may stop the effects of absent defendants, who fail to enter appearance, in the hands of other persons.

II. *BE it enacted by the General Assembly,* That if in any suit which hath been, or hereafter shall be commenced for relief in equity in the High Court of Chancery, or in any other Court, against any Defendant or Defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to such absent Defendant or Defendants, and the appearances of such absentees be not entered, and security given, to the satisfaction of the Court for performing the decrees, upon affidavit that such Defendant or Defendants are out of the country, or that upon enquiry at his, her, or their usual place of abode, he, she, or they, could not be found so as to be served with process, in all such cases, such Court may make any order, and require surety if it shall appear necessary, to restrain the Defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent Defendant or Defendants, and for that purpose may order such debts to be paid and effects delivered to the said Plaintiff or Plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the Court shall direct.

May direct them to be delivered to the plaintiff on his giving security.

And shall appoint a day for the defendants appearance.

A copy of the order when & how to be published.

If the defendant fails to appear, the bill may be taken for confessed and decree entered.

Plaintiff to give security for abiding such future order as may be made in the suit.

Plaintiff failing to give security, effects to remain under the direction of the court.

III. THE Court shall also appoint some day in the succeeding Term, for the absent Defendant or Defendants to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in some public news-paper published in this State, convenient to the place where the Court is held, and continued for two months successively, and another copy shall be posted at the front door of such Court. If such absent Defendant or Defendants, shall not appear and give such security within the time limited, or such further time as the Court may allow, for good cause shewn, the Court may proceed to take such proof as the Complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof, by such ways and means as hath heretofore been used for enforcing other decrees, requiring the Plaintiff or Plaintiffs to give security as the Court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent Defendant or Defendants, upon his or their appearance and answering the bill; and if the Plaintiff or Plaintiffs shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the Court in the hands of a Receiver, or otherwise, for so long time, and shall then be finally disposed of, in such manner as to the Court shall seem just.

When and how persons affected by such decrees may have their causes reheard.

IV. IF any person or persons who shall be out of the Commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree, return, and appear openly; or in case of his or her death, if his or her Heir, Executor, or Administrator, shall, within the said seven years, be, and appear openly within this Commonwealth, the Plaintiff or Plaintiffs, their Executors or Administrators, shall serve such person or persons so returning or appearing, with a copy of the decree, within a reasonable time after such return or appearance shall be known to the Plaintiff or Plaintiffs, and thereupon such Defendant or Defendants, or their Representatives, may within twelve months after such service, or those Defendants not served with a copy, or their Representatives, may, within seven years after the decree pronounced, appear in Court and petition to have the cause reheard; and upon their paying down, or giving security for payment of such costs as the Court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause: But, if the

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ſeveral Defendants, or their Repreſentatives, upon whom the decree ſhall be ſo ſerved, ſhall not within twelve months after ſuch ſervice, and the other Defendants, or their Repreſentatives, upon whom no ſuch ſervice is made, ſhall not within ſeven years from the time of the decree pronounced, appear and petition to have the cauſe reheard as aforeſaid, and pay or ſecure to be paid, ſuch coſts as the Court may think reaſonable, all and every decree to be made in purſuance of this Act againſt any Defendant or Defendants ſo failing, ſhall ſtand abſolutely confirmed againſt him, her, or them, by virtue of any Act or Conveyance, done or made, ſubſequent to the commencement of the ſuit; and at the end of ſuch term, the Court may make ſuch further order for quieting the Plaintiff or Plaintiffs in any ſuch ſuits, in their poſſeſſion and title to the eſtate and effects ſo ſequeſtered or made liable, as to them ſhall ſeem reaſonable.

V. IN all caſes whatever, where a ſuit is or ſhall be depending in the High Court of Chancery, or other Court of Equity, concerning any matter or thing whatever againſt any abſent Defendant or Defendants, the Court may, on ſatisfactory proof to them made, that ſuch Defendant or Defendants, is or are out of this Commonwealth, or, that upon enquiry at his, her, or their uſual place of abode, he, ſhe, or they could not be found, make any order ſimilar to that which is directed to be made in caſe of abſent debtors, adapting the ſame to the nature of the caſe; a copy of which order ſhall be publiſhed in like manner as is directed in caſe of abſent debtors, and thereupon if the appearance of ſuch abſent Defendant or Defendants be not entered, the Complainant may proceed in like manner as if an appearance had been entered. *Provided always,* that where ſuch decree ſhall be made, ſuch abſent Defendant or Defendants, may at any time within ſeven years, be permitted to file his, her, or their anſwer, and to ſhew cauſe why the ſaid decree ſhould be ſet aſide; upon which the Court may make ſuch decree as ſhall appear to be equitable.

The ſame proceedings to be purſued againſt other abſent defendants as againſt abſent debtors.

VI. IF any perſon ſhall make complaint to any Juſtice of the peace, that his debtor is removing out of the County or Corporation privately, or abſconds or conceals himſelf, ſo that the ordinary proceſs of Law cannot be ſerved on him, ſuch Juſtice ſhall grant an attachment againſt the eſtate of ſuch debtor, or ſo much thereof, as ſhall be ſufficient to ſatisfy the debt and coſts of ſuch Complainant; which attachment, where the debt or demand ſhall exceed five dollars or two hundred pounds of tobacco, ſhall be returnable to the next County or Corporation Court, and directed to and ſerved by the Sheriff, or his Under-Sheriff, unleſs in caſe where the Sheriff is a party intereſted, and then, the ſame ſhall be directed to, and ſerved by a Coroner, or Serjeant; and it ſhall be lawful for ſuch Sheriff or Officer, to ſerve and levy the ſame, upon the ſlaves, goods and chattels of the party abſconding, wherever the ſame ſhall be found, or in the hands of any perſon or perſons indebted to, or having any effects of the party abſconding, and to ſummon ſuch garniſhee or garniſhees to appear at the next Court to be held for the ſaid County or Corporation, there to anſwer upon oath, what he or ſhe is indebted unto ſuch party, and what effects of ſuch party, he or ſhe hath in his or her hands, or had at the time of ſerving ſuch attachment; which being returned executed, the Court may thereupon compel ſuch garniſhee to appear and anſwer as aforeſaid.

Attachments againſt abſconding debtors, how to be obtained, executed and returned.

VII. *PROVIDED always,* That every Juſtice of Peace, before granting ſuch attachment, ſhall take bond and ſecurity of the party for whom the ſame ſhall be iſſued, in double the ſum to be attached, payable to the Defendant, for ſatisfying and paying all coſts which ſhall be awarded to the ſaid Defendant, in caſe the Plaintiff ſuing out the attachment therein mentioned, ſhall be caſt in his ſuit, and alſo all damages which ſhall be recovered againſt the ſaid Plaintiff for his ſuing out ſuch attachment; which bond ſhall be by the ſame Juſtice, returned to the Court to which the attachment is returnable; and the party entitled to ſuch coſts or damages, may thereupon bring ſuit, and recover; and every attachment iſſued without ſuch bond taken, or where no bond ſhall be returned, is hereby declared illegal and void, and ſhall be diſmiſſed.

Party obtaining one firſt to give bond and ſecurity, otherwiſe it ſhall be void.

VIII. *PROVIDED alſo,* That all attachments ſhall be repleviable by appearance, and putting in good bail, if by the Court ruled ſo to do, or by giving bond with good ſecurity to the Sheriff or other Officer ſerving the ſame; which bond, the Sheriff or other Officer is hereby empowered and required to take, to appear at the Court to which ſuch attachment ſhall be returnable, and to abide by and perform the order and judgment of ſuch Court.

Attachments repleviable by appearance & giving bail, or ſecurity for appearance.

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Rules where security is taken for appearance.

IX. *AND be it further enacted*, That upon the Defendant or Defendant's replevying any attached effects, by giving bond and security to the Sheriff or other Officer as aforesaid, the Sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the Court, and if the Defendant shall fail to appear and give special bail, if thereunto ruled by the Court, such Sheriff and security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of mesne process.

Method of prosecuting attachments where the debt does not exceed 20 dollars, or 1000 lbs. of tobacco.

X. *AND be it further enacted*, That it shall be lawful for any creditor, where his debt doth not exceed twenty dollars or one thousand pounds, of tobacco, to go before any Justice of the Peace of the County or Corporation where his debtor resides, and make oath how much is justly due to him, and that he hath grounds to suspect, and verily believes, that such debtor intends to remove his effects; and thereupon such Justice shall issue an attachment against the estate of such debtor, returnable to his next County or Corporation Court, directed to all Sheriffs, Serjeants, and Constables within the Commonwealth; and by virtue thereof, it shall be lawful as well for the Sheriff, Serjeant, or any Constable of the County or Corporation where such attachment shall be obtained, as for the Sheriff, Serjeant, or any Constable of other Counties or Corporations, to pursue and seize such effects, and to make return of such attachment to the Court where the same shall be returnable; and thereupon, such proceedings shall be had without a petition, as in other cases of attachment.

Where it is under 5 dollars, or 200 lbs. of tobacco.

XI. AND upon complaint made to a Justice of Peace, that any person indebted to the complainant in any less sum than five dollars, or two hundred pounds of tobacco, is removing out of the County or Corporation privately, or so absconds or conceals himself that a warrant cannot be served upon him, such Justice shall, taking bond and security, as in this Act is before directed, grant an attachment against the estate of such debtor, or so much thereof, as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the Sheriff, or any Constable of his County, or Serjeant, or any Constable of his Corporation, and returnable before himself or any other Justice thereof, who shall and may proceed thereupon, as upon an attachment returnable to the County or Corporation Court.

Where the attachment is not replevied, the plaintiff shall have judgment.

XII. AND if any attachment returnable to the County or Corporation Court, or before a Justice of Peace, shall be returned executed, and the goods or effects attached shall not be replevied as this act directs, the Plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforesaid, shall be sold and disposed of, for and towards satisfaction of the Plaintiff's judgment, in the same manner as goods taken in execution upon a writ of *fieri facias*. And where any attachment shall be returned served in the hands of any Garnishee, it shall be lawful upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment and award execution against every such Garnishee and Garnishees, for all sums of money due from him, her, or them, to the person absconding, or in his, her, or their custody or possession, for the use of such person, or so much thereof as shall be of the value sufficient to satisfy the debt and costs of the Complainant; and all goods and effects whatsoever, in the hands of any Garnishee or Garnishees, belonging to such absconding person, shall be liable to satisfy such judgment.

Judgment against the garnishee.

XIII. AND WHEREAS attachments are frequently served upon horses, cattle, hogs, sheep, and other live stock, which the Officers serving the same are obliged to retain in their custody for a length of time, before an order of Court can be obtained for the sale of such live stock, or for want of buyers, during which time such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, that when any Sheriff or other Officer shall serve an attachment on horses or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such Officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold or otherwise legally discharged from such attachment; and upon the trial of any attachment, the Court before whom such attachment shall be tried, may and shall upon the motion of the Officer serving the same, settle and adjust what such Officer shall be allowed for his expences incurred by supporting such stock,

Live stock attached to be supported by the officer.

to be taxed in the bill of costs against the party against whom such judgment shall be given on such attachment, and the same shall be retained by the Officer out of the money arising from the sale of such stock; and the said Officer shall and may retain the expences of supporting such stock, taken as aforesaid, out of the money arising from the sale, to be settled in manner aforesaid. And where the Plaintiff in any attachment shall be cast, the expences aforesaid shall be taxed in the bill of costs against such Plaintiff, for which the Defendant may take execution with the other costs. And the expence defrayed out of the money arising from the sales.

XIV. *AND be it further enacted*, That upon proof being made before a Magistrate, that a debtor is actually moving or absconding as aforesaid on Sunday, it shall be lawful to issue and serve an attachment against such debtor, as is directed by this Act on any other day. Attachments may be issued on *Sundays*.

XV. NO master of a ship or other vessel shall transport or carry any person whatsoever out of this Commonwealth, unless such person shall first have published for six weeks successively in the *Virginia* Gazette, his, or her resolution to depart therefrom, under the penalty of answering and paying every debt and duty such person at his or her departure out of this Commonwealth shall owe, or stand bound for to the Commonwealth, or to any Citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatsoever, to be recovered against such master by action of debt, in any Court of Record within this Commonwealth. Penalty on master of a vessel carrying any person out of the commonwealth, unless such person has advertised in the Gazette his intention to leave it.

XVI. EVERY master of every ship or other vessel offending herein, shall be liable to be sued at any time for any debt due or owing from the person so transported. And whensoever any such action or suit shall be brought against him, the Court wherein the same shall be depending, may rule the Defendant to give special bail, and the Clerk shall endorse on the writ, that appearance bail is required: *Provided*, the Plaintiff shall make affidavit before a Magistrate of the cause of action, which shall be transmitted to the Clerk of the Court. Such master may be sued at any time, & ruled to give special bail.

XVII. ALL and every Act or Acts, and part of Acts within the purview of this Act, shall be, and the same are hereby repealed. Repealing clause.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. LXXIX.

An Act declaring the Law concerning the Escape of Debtors and other Prisoners.

[Passed the 24th of November, 1792.]

I. FOR the more effectual retaking and securing persons who escape out of Prison: *Be it enacted*, that if any person committed, rendered, or charged in custody, in execution, or upon mesne process, to any County or Corporation Prison, or to the Jail of any District, shall thence escape, it shall and may be lawful for any Justice of the Peace in the County or Corporation where such prisoner was in custody, upon oath of such escape before him made by the Sheriff, Under-Sheriff, Serjeant, Jailor, or other credible person, to grant unto any one demanding the same, one or more warrants under his hand and seal, directed to all Sheriffs, Mayors, Serjeants, Bailiffs and Constables, within this Commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them in their respective Counties, Cities, Towns, and Precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the Prison where debtors are usually kept in the County or Corporation where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of Law; which warrant the Sheriff or other Officer is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his Process against prisoners escaped. Escape warrants.

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Return thereof upon retaking the prisoner and proceeding thereon.

receipt of such prisoner, and shall also make return of the execution of such warrant to the Court of that County, Corporation, or District from whence the prisoner escaped; and if he or she was there in custody, charged in execution, then the Sheriff or other Officer shall safely keep him or her, without bail or mainprize, until he or she shall make full payment and satisfaction to the Plaintiff or Plaintiffs, Creditor or Creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of Law. And if such prisoner shall have been in custody upon mesne process, in any action of debt, or upon the case, the Sheriff or other Officer to whom he or she shall be so recommitted, shall, in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the Court of that County, Corporation, or District wherein he or she was first arrested, and thereupon it shall be lawful for the said Court, upon the Plaintiff's or Creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the case shall appear to them, in the same manner as if the Defendant had appeared in the said Court and refused to plead, unless such Defendant shall cause special bail to be entered in the said Court, and shall immediately plead to issue, and then upon certificate under the hand of the Clerk of the said Court, that such bail is given, delivered to the Sheriff or other Officer in whose custody such Defendant then shall be, it shall be lawful for the said Sheriff or other Officer to set at large such prisoner, and not otherwise; but where any prisoner escaped and retaken upon such warrant as aforesaid, shall thereafter be charged with Treason, Felony, or other Crime or Cause in behalf of the Commonwealth, for which he or she ought to be tried in the District Court, and shall be for such cause removed to the Jail of the District Court, every such prisoner shall be charged in the said District Jail, with all the causes wherewith he or she stood charged in the prison from whence he or she was removed, until he or she be thence delivered by due course of Law, in like manner as is herein before directed.

Mode of proceeding against prisoners escaping from the prison rules.

II. WHEN any person in execution, who shall have obtained the liberty of the Prison Rules, by giving bond and security for the same, shall hereafter escape and go out of the same, the Sheriff or other Officer of the County or Corporation where such prisoner was in custody, shall, and he is hereby required immediately to apply to a Justice of the Peace for an escape warrant, to retake such prisoner according to the directions of this Act, and such Sheriff or other Officer shall, and he is hereby required immediately to give notice thereof to the Creditor at whose suit he was in custody, or to his Attorney or Agent, and shall assign over and deliver to such Creditor, or his Attorney, the bond by him taken for the liberty of the Prison Rules, who shall be obliged to receive the same; and thereupon it shall and may be lawful for such Creditor, or his Attorney, to pursue the method directed by this Act for retaking such Debtor upon the escape warrant aforesaid; and if he be retaken thereupon, and committed to Jail, the securities for his keeping the Prison Rules, shall be discharged from their bond, or such Creditor, or his Attorney, shall or may, at their election, commence and prosecute an action or suit at Law against the security or securities named in such bond, for the recovery of his debt, notwithstanding he shall have applied for and obtained an escape warrant against his Debtor, as aforesaid, if such Debtor is not retaken and committed to Jail thereupon; and the Sheriff or other Officer shall not be liable or answerable for the payment of the debt for which such prisoner was in custody, unless the security or securities named in the bond by him taken of such prisoner for the liberty of the Prison Rules, shall afterwards be found to have been insufficient for the payment of such debt at the time the same was taken.

III. AND whereas the situation of most Prisons in this Commonwealth, hath given opportunities to evil disposed persons to break open the same, and turn out Debtors and others in custody, to the hindrance of justice, prejudice of Creditors, and ruin of Sheriffs, who have been compelled to pay the debts with which such prisoners stood charged: For remedy thereof, *Be it further enacted*, that no judgment shall be entered against any Sheriff or other Officer, in any suit brought upon the escape of any Debtor in his or their custody, unless the Jury who shall try the issue, shall expresly find that such Debtor or prisoner did escape with the consent or through the negligence of such Sheriff (or Serjeant) or his Officer or Officers, or that such prisoner might have been retaken, and that the Sheriff (or Serjeant) and his Officers, neglected to make immediate pursuit. *Provided always*, that where any Sheriff or other Officer shall have taken the body of any Debtor in execution, and shall wilfully and negligently suffer such Debtor to escape, the person suing out such ex-

Sheriff not liable, unless the prisoner escaped with his consent, or through his negligence, or unless he neglected to retake him when he might.

Action of debt may be main-

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ecution, his Executors or Administrators, shall and may have and maintain an action of debt against such Sheriff or other Officer, his Executors or Administrators, for the recovery of all such sums of money, and tobacco, as are mentioned in the said execution, and damages for detaining the same; any Law, custom, or usage to the contrary, notwithstanding. If any private person have any prisoner in his keeping arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested escape by negligent keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made.

tained against Sheriff suffering debtor in execution to escape.

Penalty on private persons suffering criminals in their custody to escape.

IV. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that all rights, remedies, fines, forfeitures and penalties, incurred previous to the passing of this Act, shall remain in the same condition as if this Act had never been made.

Repealing clause. Proviso.

V. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXX.

An Act to reduce into one, all Acts and Parts of Acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of November, 1792.]

I. BE *it enacted by the General Assembly*, That the Court of every County within this Commonwealth, shall in the month of *June* or *July*, annually, nominate to the Governor or Chief Magistrate for the time being, three persons named in the commission of the peace, for such County, one of which persons so nominated, being approved by the Governor, with the advice of the Privy Council, shall be commissioned by the Governor, to execute the office of Sheriff in such County.

Sheriffs how to be nominated and appointed.

II. IF the Court of any County shall fail to nominate persons for the office of Sheriff, within the periods above prescribed, every Justice so neglecting, shall forfeit and pay the sum of two hundred dollars.

Penalty on the Justices for not making the nomination.

III. IF any person hereafter appointed Sheriff of any County, shall not within two months after his appointment, give bond and sufficient security, for the true and faithful performance of his duty as Sheriff, and also for the collection of taxes, the Clerk of the Court of such County shall, within one month thereafter, transmit to the Governor for the time being, a certificate of such neglect or failure, under the penalty of three hundred dollars.

If a sheriff fails to give bond and security in two months, the clerk of the court to certify it to the Executive.

IV. IF the person first commissioned to the said office of Sheriff, shall fail to give bond in two months after his appointment, and the Clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the Governor or Chief Magistrate, for a commission, within one month after such nomination, the Governor, with advice of Council, is hereby authorised and required to issue a commission to some other person nominated by the Court, which commission, to all intents and purposes, shall supersede and annul the former commission; and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the Governor, with the advice of the Council, is hereby authorised and required, in either case, to commission any other person or persons nominated by the Court, which last commission shall in like manner supersede the former.

When the sheriff fails to give bond and security, or the person first nominated fails to apply for a commission, the Executive may commission some other person.

V. IF any Sheriff shall die in the time of his sheriffalty, the Governor, with the advice of the Council, may, and is hereby empowered and required, to commission some other person nominated by the Court, to be Sheriff in his room.

How a sheriff is to be appointed in the room of one dying.

VI. EVERY person hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may, with his own consent, and the

How long they shall be continued in office.

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approbation of the Executive, be continued for two years, and no longer; unless by some accident or impediment, a succeeding Sheriff shall be prevented from qualifying, in which case the preceding Sheriff shall continue to act, until a successor shall be qualified according to the directions of this Act.

How long they shall continue in office when appointed in the room of others dying.

VII. AND whereas inconveniences and disputes may arise, in case of the death of a Sheriff before his term of service may expire, and in such case the person appointed to succeed to the office of Sheriff, must serve one year from the time of such appointment, if not continued for two years, with his own consent, and with the approbation of the Executive, and in that case for two years from such appointment, which may occasion the Sheriffs in different parts of the country, to be appointed at different periods of the year: *Be it therefore enacted*, That when by the death of any Sheriff, another shall be appointed at any other time than in the months of *June* or *July*, the Governor, with advice of Council, may continue such successor in office, until the Court to be held in the months of *June* or *July* next after his two years continuance therein, shall expire; any thing in this Act to the contrary notwithstanding.

Sheriffs to give bond and security for duly collecting and accounting for the public taxes.

VIII. EVERY person accepting the commission of Sheriff, shall, before his being sworn into, or executing his office, enter into one bond before the Justices of his County Court, payable to the Governor of this Commonwealth, for the time being, and his successors, for the use of this Commonwealth, with good and sufficient security, in the sum of thirty thousand dollars, for the true and faithful collecting, accounting for, and paying the taxes imposed by Law in his County; which bond every County Court is hereby empowered and required to demand, take, and cause to be acknowledged before them in open Court, and recorded: And an attested copy thereof shall be transmitted by the Clerk to the Auditor of Public Accounts, which shall be admitted as evidence in any suit, motion or proceeding founded thereon.

When the Executive may appoint collectors of the public taxes.

IX. IF upon the refusal to act, or disability of any Sheriff, it shall appear proper to the Executive to appoint a Collector, it shall be lawful for them to make such appointment, and the person so appointed Collector, shall give bond and security in the same manner as the Sheriffs do for duly collecting and accounting for the public revenue, and shall possess every power, and be liable to every penalty, which the Sheriff would have possessed, or been liable to.

Sheriffs to give bond and security for duly collecting and accounting for all public levies, fines, &c.

X. EVERY person accepting the commission of Sheriff, shall likewise enter into another bond with two good and sufficient securities at the least, in the sum of   , with a condition in the following form, to wit:

THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of   , by a commission from the Governor, under the seal of the Commonwealth, dated the   day of   , last past, If therefore, the said A. B shall well and truly collect all levies, and account for and pay the same in such manner as is by Law directed, and also all fines, forfeitures, and amercements, accruing or becoming due to the Commonwealth in the said County, and shall duly account for and pay the same to the Treasurer of this Commonwealth for the time being, for the use of the Commonwealth, in like manner as is or shall be directed in case of public taxes, and shall in all other things truly and faithfully execute the said office of Sheriff, during his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue.

And for collecting and accounting for officers fees, and duly discharging the duties of his office.

And shall also enter into one other bond before such Court, with the like securities, in the sum of   , with a condition, in the following form, to wit:

THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of   , by commission from the Governor under the Seal of the Commonwealth, dated the   day of   , last past, If therefore the said A. B. shall well and truly collect and receive all Officers fees and dues put into his hands to collect, and duly account for and pay the same to the Officers to whom such fees are due respectively, at such times as are prescribed and limited by Law, and shall well and truly execute, and due return make of all process and precepts to him directed, and pay and satisfy all sums of money and tobacco by him received by virtue of any such process, to the person or

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persons to whom the same are due, his, or their Executors, Administrators or Assigns; and in all other things shall truly and faithfully execute and perform the said office of Sheriff, during the time of his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue.

Sheriffs bonds, to whom to be made payable. How suits may be brought thereon.

XI. WHICH bonds shall be made payable to the Governor or Chief Magistrate for the time being, and his successors, and entered of Record in the County Court. And in the name of the Governor or Chief Magistrate, or his successors, any person or persons injured, may and shall at his, her, or their costs and charges, commence and prosecute suits on such last mentioned bond, against the parties therein bound, their Executors or Administrators, and shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of his bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs, who shall sue upon such bond; but may be put in suit and prosecuted from time to time, for the benefit, and at the proper costs and charges of any party injured, until the penalty expressed in such bond shall be recovered. *Provided always*, that if any verdict or judgment shall pass for such Sheriff, or his security, the person at whose instance such suit shall be brought or prosecuted, shall pay such Sheriff or his security their costs.

No person to act as a deputy sheriff more than two years, unless he has collected and accounted for the public taxes.

XII. NO person whatsoever shall be capable to serve or execute the office of Under-Sheriff, or Deputy-Sheriff of any County, for any longer time than two years in any period of four years, unless he shall produce to the Court of the County, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal.

Sheriffs and collectors to deliver to persons paying officer's fees, taxes, &c. fair accounts and receipts.

XIII. EVERY Sheriff, Deputy-Sheriff, or Collector, who shall hereafter receive from any person or persons, any officers fees, dues, taxes, County levies, or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him; and every Sheriff, Deputy-Sheriff, or Collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of four dollars for each offence; to be recovered with costs before any Justice of the Peace of the County, where such Sheriff, Deputy-Sheriff, or Collector, shall reside; and such Sheriff or other Officer shall moreover be liable to the party grieved for all damages he may sustain, by means of such Officer's demanding and receiving a greater sum than shall be really due; to be recovered by action of trespass on the case, before any Court of Record within this Commonwealth, in which action, where the Plaintiff shall recover, he shall also recover full costs.

Sheriffs and other officers to execute process within their counties, and on the bays, rivers, and creeks adjoining thereto.

XIV. EVERY Sheriff himself, or by his lawful Officers, or Deputies, shall from time to time execute all writs and other process to him legally issued and directed, within his County, or upon any Bay, River or Creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the Governor for the time being, for the better support of the Government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs by action of debt or information in any County Court of this Commonwealth; and such Sheriff shall be further liable to the action of the party grieved at common Law, for his or her damages; and for every false return, the Sheriff shall forfeit and pay sixty dollars, to be recovered, divided and applied in the same manner as last mentioned; and shall also in like manner, be liable to the party grieved for damages.

Penalty for a false return thereof.

When the sheriff may return that the defendant is not found.

XV. NO Sheriff shall return, upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or other Officer shall have actually been at the dwelling-house or place of abode of such Defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of any County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office as to such Defendant, shall abate and be dismissed.

No process to be served on *Sundays*. Nor on persons attending

XVI. *PROVIDED always*, That it shall not be lawful for any Sheriff or other Officer, to execute any writ or process upon the Lord's day, commonly called *Sunday*, nor upon any person attending his duty at any muster of militia, or any election of Members of the State

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musters of militia; Elections; or as witnesses;

Legiſlature, or of that of the United States, or at any Election for the appointment of Electors to vote for a Preſident of the United States; nor on any perſon attending as a witneſs, being duly ſummoned, at or on any order of ſurvey iſſued from any Court, or as a witneſs attending on arbitration made by order of Court, or attending Commiſſioners appointed to take depoſitions in the caſe of conteſted Elections; and that all proceſs ſo executed, ſhall be illegal and void, unleſs the ſame be iſſued againſt any perſon or perſons for Treaſon, Felony, Riot, Breach of the Peace, or upon any eſcape out of priſon or cuſtody, and ſuch proceſs ſhall and may be executed at any time or place.

Except in caſes of treaſon, felony, riot, breach of the peace, and eſcape.

Bonds taken by ſheriffs from priſoners except in caſes directed by law, void.

XVII. IT ſhall not be lawful for any Sheriff or his Officer, or Deputy, to take any obligation of, or for any perſon or perſons in his cuſtody, for or concerning any matter relating to his office, otherwiſe payable than to himſelf as Sheriff, and diſchargeable upon the priſoner's appearance, and rendering himſelf at the day and place required in the writ, whereupon he was or ſhall be taken or arreſted: And every obligation by any Sheriff taken in other manner or form, by colour of his office, ſhall be null and void; except in any ſpecial caſe, any other obligation is or ſhall be by Law particularly and expreſſly directed.

Sheriffs not to take more than the legal fees.

XVIII. NO Sheriff of any County within this Commonwealth, ſhall demand or take any other greater fee or reward whatſoever, nor ſhall have any allowance, reward, or ſatisfaction from the public, for any ſervices or buſineſs by him done, other than the allowance given and provided by Law; all other ſervices ſhall be by him done *ex officio*.

Sheriffs to collect all levies, fines, &c. and poor rates, where appointed by the overſeers of the poor.

XIX. EVERY Sheriff ſhall collect and receive the taxes due to the Commonwealth, and ſhall alſo collect all levies, fines, forfeitures and amercements, and all Officer's fees, (and poor rates when appointed by the Overſeers of the Poor to collect the ſame) and ſhall account for and pay the ſame in the manner directed by law.

Not to diſtrain ſlaves where there is other ſufficient diſtreſs, or to make unreaſonable diſtreſſes.

XX. NO Sheriff or other Officer, nor any Collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or Officer's fees, ſhall at any time ſeize or diſtrain the ſlave or ſlaves of any perſon or perſons, if other ſufficient diſtreſs can be had, nor ſhall make or take unreaſonable ſeizures or diſtreſſes, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the Plaintiff ſhall recover his full coſts, although the damages given may not exceed ſeven dollars.

May impreſs guards for ſecuring criminals in jail.

XXI. WHERE any perſon or perſons accuſed of treaſon, felony, or other capital crime, ſhall be committed to any County jail, and the Sheriff ſhall have cauſe to ſuſpect ſuch perſon will attempt to eſcape, ſuch Sheriff is hereby empowered and required to impreſs ſufficient guard for ſecuring ſuch priſoner or priſoners, ſo long as he, ſhe, or they continue in the ſaid jail, to be paid by the Public, after the rate of fifty cents for each man *per* day, in the ſame manner as the charges of ſummoning and holding Courts, for the examination of criminals.

XXII. AND for removing all controverſies, touching the manner of turning over priſoners upon a Sheriff's quitting his office: *Be it further enacted*, That the delivery of priſoners by indenture, between the old Sheriff and the new, or the entering upon record in the County Court, the names of the ſeveral priſoners and cauſes of their commitment, delivered over to the new Sheriff, ſhall be ſufficient to diſcharge the late Sheriff from all ſuits or actions for any eſcape that ſhall happen afterwards.

Method of turning over priſoners by the ſheriff to his ſucceſſor.

Sheriffs commiſſion for collecting taxes, fines, &c.

XXIII. EVERY Sheriff ſhall have and may retain for all taxes, fines, forfeitures, and amercements, and all Officer's fees, except Clerks and Surveyor's fees and levies, an allowance of five *per centum* for collecting and paying the ſame, and no more.

Sheriff ſhall not be obliged to go out of his county to pay money levied by execution, &c.

XXIV. NO Sheriff ſhall be obliged to go out of his County to pay money levied by execution, or to give notice to creditors at whoſe ſuit any perſon may be in cuſtody of ſuch Sheriff.

Sheriffs remedy againſt his deputy in certain caſes.

XXV. THE High Sheriff of a County ſhall have the ſame remedy and judgment againſt his Under-Sheriff or Deputy, or the ſecurities of ſuch Under-Sheriff or Deputy, failing to pay the money by him received on any execution to the High Sheriff, or the party to whom the ſame is payable, his agent or attorney, or ſuffering any perſon in his cuſto-

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dy to eſcape, as the Creditor at whoſe ſuit the writ iſſued may have againſt the High Sheriff, or ſuch Under-Sheriff or Deputy, or the ſecurities of ſuch Under-Sheriff or Deputy.

XXVI. AND to prevent diſputes between Sheriffs and their ſeveral Deputies, which of them may have acted in ſerving of executions or proceſs: *Be it further enacted*, That when any Under-Sheriff hath ſerved any writ, execution, attachment, or other proceſs whatſoever, he ſhall endorſe on the back of ſuch writ, the day of the month he or they ſhall have ſerved the ſame, and ſubſcribe his name, as well as that of his principal, to the return of ſuch writ or other proceſs; and every Under-Sheriff failing herein, ſhall be liable to the ſame penalty as is by Law inflicted on the Sheriff for a falſe return, and to be recovered and appropriated in the ſame manner.

Deputy Sheriff, to indorſe on executions the time when received, and to ſubſcribe his own and his principal's names to returns on proceſs.

XXVII. WHERE the Sheriff of any County heretofore hath, or hereafter ſhall appoint any perſon to be his Under-Sheriff, to collect the taxes required by Law in his County, and ſuch Under-Sheriff ſhall neglect, or refuſe to account for, and pay ſuch taxes to the Sheriff under whom he hath been or ſhall be appointed, or to the Treaſurer at the time appointed for paying the ſame, it ſhall and may be lawful for the Diſtrict Court, or Court of the County whereof he hath been, now is, or ſhall be Sheriff, upon motion to them made by ſuch Sheriff, his Executors or Adminiſtrators, to give judgment againſt ſuch Under-Sheriff, his ſecurities, their Heirs, Executors or Adminiſtrators, for all the money wherewith he ſhall be chargeable, and five *per centum* damages, and five *per centum* intereſt thereon, and to award execution for the ſame; provided ſuch Under-Sheriff, and his ſecurities, have ten days previous notice of ſuch motion: *Provided alſo*, That no execution ſhall be iſſued againſt an Under-Sheriff and his ſecurities, for the five *per centum* damages, and intereſt thereon, unleſs judgment ſhall have been obtained againſt the High Sheriff for the ſame.

Sheriff's remedy againſt his deputy failing to account for public taxes received by him.

Proviſo.

XXVIII. WHERESOEVER the lands of any Sheriff or Collector would have been bound for any debt due to the Commonwealth, they ſhall be bound in like manner, to the ſecurity or ſecurities who may have paid the whole or a part of ſuch debt, and it ſhall be lawful for the General Court, or Diſtrict Courts to award a like execution againſt the ſaid lands, on the motion of ſuch ſecurities, to that which would have been iſſued on behalf of the Commonwealth, provided that ten days previous notice ſhall be given to the principal, his Heir or Deviſee, as the caſe may be.

Where Sheriffs lands would have been bound for public debts, they ſhall be bound in like manner for reimburſement of their ſecurities paying ſuch debts.

XXIX. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, ſhall be, and are hereby repealed. *Provided*, That all rights and remedies given by ſuch Act or Acts, and all ſuch parts of Acts, ſhall be, and remain as if this Act had not been made.

Repealing clauſe. Proviſo.

XXX. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

C H A P. LXXXI.

An Act concerning Coroners.

[Paſſed the 29th of November, 1792.]

I. BE *it enacted by the General Aſſembly*, That from time to time hereafter, as often as there ſhall be a vacancy in the office of Coroner, in any County or Corporation within this Commonwealth, the Court of ſuch County or Corporation ſhall, at their next Seſſion thereafter, nominate two fit and diſcreet perſons, reſiding within ſuch County or Corporation, to be Coroner thereof; one of which perſons, being approved by the Governor, with the advice of the Council, ſhall be commiſſioned by the Governor to execute the office of Coroner within ſuch County or Corporation during good behaviour.

Coroners, how to be nominated and commiſſioned.

II. IF any Court ſhall fail to make ſuch nomination at the time preſcribed by this Act, every Juſtice of ſuch Court ſhall forfeit and pay the ſum of one hundred and fifty dollars,

Penalty on the Court failing to make the

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nomination.

to be recovered by action of debt in any Court of Record within this Commonwealth, one half to the use of the informer, the other half to the use of the Commonwealth; or by information at the suit of the Auditor, in the General Court, in which case the whole penalty shall be to the use of the Commonwealth.

Several Coroners may be appointed in each county.

III. *PROVIDED always*, That nothing in this Act contained, shall be construed to restrain or prevent the County or Corporation Courts from nominating any person or persons to the Governor, to be Coroner within such County or Corporation, whensoever in their opinion a necessity may arise of having more than one Coroner in such County or Corporation.

But to act only within the limits of their respective counties.

IV. *PROVIDED also*, That no Coroner appointed for a County or Corporate Town, shall execute any of the duties of his office, except within such Town or County, for which he shall have been so appointed.

Oaths to be administered to them.

V. EVERY Coroner so commissioned, before he enters upon the duties of his office, shall, in open Court, take the oath of fidelity to the Commonwealth, and the following oath of office, viz.

I, A. B. do swear, that I will well and truly serve the Commonwealth, in the office of a Coroner, in the County or Corporation of , and therein will diligently and truly do all things appertaining to my said office, according to the best of my knowledge and power, both for the common weal, and the good of the Inhabitants within the said County or Corporation, taking such fees only as are by Law allowed. So help me GOD.

Not to serve executions until they have given bond and security.

Under a penalty.

And before he shall be at liberty to serve any writ of execution, shall moreover, in the Court of his County or Corporation, enter into bond with good and sufficient security, payable to the Governor for the time being, and his successors, for the use of the Commonwealth, in the penalty of ten thousand dollars, with condition for the true and faithful execution of his office. And if any Coroner shall presume to serve any such writ of execution without first taking the said oaths, and entering into bond as by this Act is directed, he shall forfeit and pay the sum of fifteen hundred dollars, one half to the use of the informer, the other half to the use of the Commonwealth; and shall moreover be liable to the same damages, judgment, and execution at the suit of the party grieved, in case of any misdemeanor or breach of duty in the execution thereof, as he would have been subjected to in the like case, after having been duly qualified to execute his said office.

Inquest to be taken by the Coroner, where any person is found wounded or dead, or where any house is broken.

VI. UPON request made to a Coroner to come and enquire upon the view of any person slain, drowned, or otherwise by misadventure, or suddenly dead, or wounded, or where houses are broken, he shall forthwith go to the place where any be slain, drowned, or otherwise by misadventure, or suddenly dead, or where any house is broken, and shall forthwith issue his precept to the Sheriff, Serjeant of a Corporation, or Constable of the County, or Corporation, directing him to summon at least twelve of the most intelligent and respectable freeholders of the vicinage, or County or Corporation, to appear before him at the same place with all convenient speed.

VII. AND when the said freeholders come to such place, the Coroner, upon the oath of twelve of them, shall enquire in this manner, to wit: If they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be enquired, who were guilty either of the act or of the force, and who were present, either men or women, and of what age soever they be, if they can speak, or have any discretion.

Persons found guilty by the inquisition, to be committed until the examining court. Coroner to have the same power as a justice to summon such court.

VIII. AND how many soever be found guilty by inquisition in any of the manners aforesaid, they shall be taken and delivered to the Sheriff or Serjeant, and shall be committed to the Jail, until the next Court to be holden within the County or Corporation, for the examination of such offender, and the Coroner shall have the like power and authority to summon such Court, and shall proceed in like manner as a Justice of the Peace before whom such criminal might have been charged with such offence, could or ought to do by Law.

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IX. IF any person is found slain, first it is to be enquired whether such person were slain in the place where found, or not; and if such person were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, and ascertain in what manner such body was brought there. It shall be enquired also if the dead person were known, or else a stranger, and where such person lay the night before.

Duty of the jury when any person is found slain.

X. AND if any person be found guilty of the murder, the Coroner shall immediately go into his house, and shall enquire what estate both real and personal he hath, and after such enquiry, the said Coroner shall cause all the estate to be valued, and keep the same in his hands, until the person found guilty by the Inquest be taken or surrender himself.

Coroner to keep in his hands estate of the murderer until he is taken.

XI. AND every Coroner upon any inquisition found before him, whereby any person or persons shall be indicted for murder or manslaughter, or as accessary or accessaries to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the Jury before him, being material; and the said Coroner shall have authority by this Act to bind all such by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessary or accessaries to the same, as is aforesaid, to appear at the Court to be holden within the County, City, or Borough, for the examination of such offender or offenders, then and there to give evidence against the party so indicted, at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made, to such Court.

To commit to writing the evidence given to the jury.

And to take the recognizances of the witnesses to appear at the examining court.

XII. IN like manner it is to be enquired respecting them that be drowned, or suddenly dead, what marks of violence appear on their bodies; whereupon they shall proceed in the form aforesaid.

Where persons are drowned or suddenly dead.

XIII. AND immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried.

After inquest the dead body to be buried.

XIV. IF any person be dangerously wounded, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the Defendant shall be kept; and if he recover health, he shall be attached by pledges according to the danger of the wound.

Person dangerously wounding another to be immediately arrested.

XV. ALSO all wounds ought to be viewed, the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things must be inrolled in the roll of the Coroners.

Wounds to be viewed and described.

XVI. MOREOVER, if any be accused of any act done, as principal, they that be accused as accessary, shall be attached also, and safely kept in custody, until the principal be attainted or delivered.

Accessaries to be apprehended and confined.

XVII. IF any be suspected of the death of any man, he shall be taken and imprisoned, as before is said.

And any suspected of murder.

XVIII. IN like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not, shall be amerced at the discretion of a Jury.

Hue to be levied of murders, burglaries, &c.

XIX. IF any be found guilty by inquisition taken in manner directed by this Act, and be not present, nor in custody, the Coroner shall straight issue his warrant to apprehend the person so found guilty, and the accessaries, if any; and the person accused, if apprehended, shall straightway be carried before some Justice of the County or Corporation where the offence was committed, to be dealt with as the Laws direct.

Coroner to issue his warrant to apprehend person found guilty of murder by inquisition.

XX. IF any Coroner be remiss, and make not inquisition upon the view of the body slain or murdered, or shall not endeavor to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this

Penalty on a coroner for neglecting his duty.

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Act, he shall for every such offence, forfeit the sum of one hundred dollars; to be recovered by action of debt, in any Court of Record of this Commonwealth, one half thereof to the use of the Informer, the other half to the use of the Commonwealth.

Process when to be served by the coroner.

XXI. IN every case when by reason of a just exception to the Sheriff of any County, or Serjeant of a Corporation, any writ, of what nature soever the same may be, shall be delivered to the Coroner of such County or Corporation to execute, such Coroner shall do and perform all things by virtue of such writ, which the Sheriff or Serjeant himself, might or ought to have done, had there been no just exception against him according to the nature of the case; and in case of any neglect or breach of his duty, such Coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment and execution, as Sheriffs or Serjeants are subject to in like cases.

Coroners subject to the like penalties and fines as sheriffs.

No security to be taken on executions against them for neglect of duty.

XXII. AND upon every execution issued against a Coroner, upon any judgment against him obtained for breach or neglect of his duty, the Clerk shall endorse, that "no security is to be taken."

Repealing clause.

XXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

XXIV. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXII.

An Act concerning Escheators.

[Passed the 30th of November, 1792.]

Escheators how to be appointed. Not to act by deputy. To give bond and security.

I. BE *it enacted by the General Assembly*, That there shall be one Escheator commissioned in every County by the Governor, on recommendation from the Court of the same County, who shall execute his office in proper person and not by deputy, and shall before the Court of the County be bound in the penalty of three thousand dollars, with security to be approved by the same Court, duly to perform the duties of his said office.

When and how they are to take their inquests.

II. THE said Escheator shall sit in convenient and open places, and shall take his Inquests of fit persons who shall be returned and impannelled by the Sheriff of the County, and shall suffer every person to give evidence openly, in their presence, to such Inquests, and the said inquisition so taken, shall be by indentures to be made between the said Escheator and them of the Inquest, whereof the counter-part, sealed by the Escheator, shall remain in the possession of the first person that shall be sworn in the said Jury, and by him shall be returned to the Court of the same County, there to be recorded; and the other part, sealed by the Jurors, shall by the Escheator be sent into the Court of the District in which the land lieth, within one month after the Inquest taken.

Mode of proceeding where any man claims the land.

III. AND if it be found for the Commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the Commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the Commonwealth the yearly value of the lands, if the right be discussed for the Commonwealth.

Lands seized by the Commonwealth not to be let to farm to any but the person claiming them.

IV. NO lands nor tenements seized into the hands of this Commonwealth, upon such Inquest taken before Escheators, shall be in any wise granted, nor to farm let to any if it be not to him or them which claim as is aforesaid, till the same Inquests and verdicts be fully returned into the District Court, nor within six months after the same return, but shall entirely and continually remain in the hands of the Escheators, who shall answer to the Commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction.

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V. IF no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the Commonwealth, the Clerk of the District Court shall within one month thereafter, certify to the Escheator of the County where the lands lie, that no claim hath been made, or that being made it hath been discussed for the Commonwealth; which Escheator shall thereupon proceed to make sale of the lands for the benefit of the Commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the Register of the Land-Office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by Law directed, in the case of unappropriated lands.

When and how they shall be sold, if they are not claimed, or being claimed, the right be found in the Commonwealth.

VI. WHERE any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit apprender of any estate of freehold, or for years, or otherwise, out of such lands or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit apprender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit apprender had been found in such inquisition.

Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be, or be not found in the inquisitions.

VII. ALSO, if one person or more be found heir by office or inquisition in one County, and another person be found heir to the same person in another County; or if any person be untruly found lunatic, ideot, or dead, the person grieved by such office or inquisition may have his traverse or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein as in other cases of traverse upon untrue inquisition found.

Where a traverse or *monstrans de droit* may be had to an inquisition.

VIII. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXIII.

An Act prescribing the Mode of ascertaining the Taxable Property within the Commonwealth, and of collecting the Public Revenue.

[Passed the 13th of December 1792.]

I. EVERY County and Corporation Court within this Commonwealth shall annually, in the months of *October* or *September*, appoint discreet and reputable persons, to be Commissioners for the purposes herein after mentioned.

Commissioners of the revenue to be appointed.

II. IN those Counties where more Commissioners than one are directed to be appointed, the said Courts shall also distinctly lay off and ascertain the bounds of the District allotted to each Commissioner.

Where there are several in a county, separate districts to be assigned to each.

III. IN each of the Counties of *Fauquier* and *Loudoun*, there shall be three Commissioners; in each of the Counties of *Culpeper*, *Accomack*, *Albemarle*, *Amherst*, *Augusta*, *Bedford*, *Berkeley*, *Botetourt*, *Brunswick*, *Buckingham*, *Campbell*, *Caroline*, *Charlotte*, *Chesterfield*, *Dinwiddie*, *Essex*, *Fairfax*, *Franklin*, *Frederick*, *Goochland*, *Greenbrier*, *Halifax*, *Hampshire*, *Hanover*, *Hardy*, *Harrison*, *Henrico*, *Isle of Wight*, *King* and *Queen*, *Louisa*, *Lunenburg*, *Mecklenburg*, *Monongalia*, *Montgomery*, *Nansemond*, *Norfolk*, *Northumberland*, *Ohio*, *Orange*, *Pendleton*, *Pittsylvania*, *Prince Edward*, *Prince William*, *Princess Ann*, *Rockbridge*, *Rockingham*, *Russel*, *Shenandoah*, *Southampton*, *Spotsylvania*, *Stafford*, *Sussex*, *Washington* and *Wythe*, there shall be appointed two Commissioners; and in each of the Counties not herein before mentioned, and in each of the Cities of *Williamsburg* and *Richmond*, and the Towns of *Petersburg*, *Alexandria*, *Fredericksburg* and *Winchester*, and Borough of *Norfolk*, there shall be appointed one Commissioner.

Three to be appointed in certain counties.

Two in certain other counties.

And one in every other county, and in certain cities and towns.

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Who shall be incapable of holding the office.

IV. *PROVIDED*, That no Member of either House of Assembly, persons holding any office in civil government receiving stated salaries, practising Attornies, or Physicians, Clerks of Courts, Inspectors, Ordinary keepers, Sheriffs, Surveyors or their Deputies, or persons that have been in the office of Sheriff, Deputy Sheriff, or Collector of public taxes in their County, shall be capable of acting or serving as Commissioner, unless it shall appear by sufficient testimony, other than the party's own oath, that such Sheriff or Collector hath completed his collection, fully paid the amount thereof into the Treasury, and finally closed every account relative thereto.

Clerks of the courts to certify to the commissioners their appointment.

V. THE Clerk of the Court shall certify to every Commissioner his appointment without delay, and thereupon each Commissioner shall repair to some acting Magistrate of the County, and take the following oath, or affirmation, to wit:

Their oath.

I, A. B. do swear, (or solemnly, sincerely, and truly declare and affirm) that, as Commissioner of the Revenue for County, (City, Town, or Borough of Norfolk, *as the case may be) I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection, or partiality. And that I will do equal right and justice according to the best of my knowledge, in every case in which I shall act as Commissioner.* So help me GOD.

A certificate of which oath, or affirmation, shall be given the Commissioner by the Magistrate administering it, and the Magistrate shall also certify the same to the next Court held for his County, to be recorded.

To receive and keep the books containing the accounts of the taxes on lands.

VI. EVERY Commissioner thus qualified, shall perform the following duties within his District: He shall in the first place apply to the preceding Commissioner, or other person, who shall have possession of it, for the book containing the owners names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his District, and the tax payable thereon; which book the said Commissioner shall keep so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding Commissioner for the District. And every Commissioner shall in the said book note from time to time, all such alterations, alienations, divisions and additions, as may happen within his District, and shall also perform all the duties of the Commissioners of the land tax as herein prescribed.

To be furnished with lists of conveyances and partitions;

and of patents.

To value the lands therein mentioned.

Their duty in case of alienations or partitions, and where lands have not been heretofore valued.

VII. THE Clerk of the General Court, and the Clerks of the several District Courts, on or before the first day of *May*, annually, are hereby directed to make return, and the Clerks of the County and Corporation Courts to deliver to the said Commissioners, a list of conveyances or partitions recorded in their respective Courts within the preceding year, certifying the quantity and situation of the lands so conveyed; and the Register of the Land-Office, on or before the first day of *April*, annually, shall in like manner transmit a list of all grants issued within the year preceding, to be by them valued at a price equal to other lands within their respective Districts, similar in soil and situation, and such Commissioner shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon; and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said Commissioners shall, and they are hereby required to value the same and charge the owner thereof with the tax in manner aforesaid.

To take the lists of taxable property.

VIII. THE said Commissioners shall severally on the tenth day of *March*, annually, begin, and continue proceeding without delay through their respective Districts, and call upon every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the Commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons, and of every species of property in his or her possession or care, within the District (land only excepted) subject to taxation on the ninth day of *March*, then next preceding, and that no contract, change or removal whatever of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the Commissioner is hereby empowered and directed to administer.

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IX. AND whereas frequent abuſes have been practiſed by the owners of billiard tables by taking them down, ſo as to defeat the intention of this act: *Be it enacted*, That the Commiſſioner ſhall return all ſuch which to his knowledge have been ſet up or uſed within his County at any time within the year, although the ſame may not be returned by the owner thereof, and ſuch tables ſhall at all times be liable for the tax.

Rule reſpecting billiard tables.

X. EACH of the ſaid Commiſſioners ſhall after collecting the liſts of property from the inhabitants of his Diſtrict, in manner before mentioned, make four alphabetical general liſts therefrom, ſhewing in columns, according to the form hereto annexed, the date when each liſt was received, the perſons chargeable with the tax or taxes, diſtinguiſhing thoſe alſo ſubject only to County levies and poor rates, and the number or quantity of every ſpecies of property ſubject to tax, which liſts ſhall be kept and delivered in the following manner: Each Commiſſioner ſhall retain one of thoſe liſts in his own poſſeſſion, ſo long as he continues in office, afterwards to be delivered to his ſucceſſor, as in the caſe of the land-tax books, and one other of the liſts, together with the liſts taken from the individuals in his Diſtrict, ſhall be returned to the Clerk, who ſhall examine the ſame, and if found to be erroneous, either in addition or otherwiſe, correct the ſame together with the others, and then certify them to be true copies. The liſts in the Clerk's office ſhall ſerve for laying the County levy, and fixing the poor rates, and be ſubject to the inſpection or examination of every perſon who may chooſe to examine the ſame, provided they be not taken out of the Clerk's poſſeſſion; and copies may be had at the charge of the perſon or perſons deſiring the ſame. One other of the ſaid liſts after being certified by the Clerk, ſhall be delivered by the Commiſſioner to the High Sheriff of the County, as his guide to collect the taxes, and the remaining fourth liſt being alſo certified by the Clerk, ſhall be tranſmitted by the Commiſſioner to the Auditor's office, there to be minutely examined, and to be produced by the Auditor, and admitted as evidence by the General Court, for the amount of taxes charged the Sheriff. All which liſts it is hereby declared, to be the duty of the ſeveral Commiſſioners to have delivered to the ſeveral perſons or Officers, on or before the laſt day of *May*, annually. And the ſaid Commiſſioners ſhall take a receipt or acknowledgment in writing of the delivery of ſuch liſts.

Commiſſioners to make four general alphabetical liſts of taxable property.

To whom ſuch copies ſhall be delivered.

And when.

XI. THE ſaid Commiſſioners ſhall alſo at the time of delivering liſts of taxable property herein before directed, deliver to the Clerk of his County, and at the Auditor's office, a fair and correct copy of the ſtate of the land tax, noting the alterations, alienations, diviſions, and additions that may have taken place in the preceding year, within his Diſtrict, to enable the Clerk to adjuſt his book of the land tax, and the Auditor to adjuſt the Equalizer's books; and the book containing the land tax, together with the annual returns of the ſeveral Commiſſioners lodged in the Clerk's office, ſhall be ſubject at all times to the inſpection of every perſon, in like manner as the liſts of taxable property; and the ſaid Commiſſioners ſhall alſo deliver to the Sheriff an exact liſt of taxes due from all and every perſon or perſons for land within his Diſtrict, to enable the Sheriff to proceed in his collection.

To deliver fair copies of the ſtate of the land tax to the clerk of the court, the ſheriff, and the Auditor.

XII. IN caſe any perſon appointed to the office of Commiſſioner under this Act, ſhall refuſe to ſerve, not having a reaſonable excuſe in the opinion of the Court of the County, he ſhall for ſuch refuſal, forfeit and pay the ſum of one hundred dollars.

Penalty on perſon refuſing to ſerve as a commiſſioner.

XIII. NO Commiſſioner after having ſerved one year, ſhall be again compelled to ſerve.

None compellable to ſerve more than one year.

XIV. UPON the refuſal to act, notice of reſignation, death or inability of any Commiſſioner, it ſhall be the duty of the Court of ſuch County, immediately to appoint a ſucceſſor, and the Clerk is directed to call for all papers in the preceding Commiſſioner's hands, or his legal repreſentatives; and in caſe they be loſt, ſhall be furniſhed on application as herein before directed.

Vacancies how to be ſupplied.

XV. THE Court of each County, City, and Corporation, ſhall make ſuch allowance to the Clerk for his ſervices under this Act, as they ſhall think reaſonable, which ſhall be levied on the tithables within the ſame.

Allowances to the clerks of courts.

XVI. THE Commiſſioners of the revenue ſhall before the firſt day of *Auguſt* in every year, return to the Courts of their reſpective Counties or Corporations, a correct account

To the commiſſioners.

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of their services, and the said Courts are hereby respectively authorised and required to ascertain the time, in which the said services might have been reasonably performed, and shall certify the same to the Auditor of public accounts in manner following;

"THIS day produced an account of his services as a Commissioner of the revenue, and the Court have considered that days were requisite for the said Commissioner to perform the services aforesaid:"

And in lieu of the allowance heretofore made, the said Commissioners shall be paid by the Treasurer of this Commonwealth, on warrant from the Auditor of public accounts, one dollar per day, agreeably to the time so ascertained by the Court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more. *Provided always*, that no Commissioner or Commissioners, shall be allowed a sum or sums exceeding the revenue tax, of his or their respective Counties or Corporations.

For entries of alienations or alterations. Allowances to commissioners not to exceed the taxes of the county. May be removed from office by the court of the county.

XVII. ON complaint made to any County or Corporation Court, that a Commissioner neglects or abuses the trust hereby vested in him, it shall be lawful for such Court to order a summons to issue, requiring the said Commissioner to appear before them at their next succeeding Court, which being served on him, or a copy thereof left at his usual place of abode, ten days at least before the return day thereof, the Court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that the said complaint is well founded.

Penalty for delivering false lists of property, or refusing to give lists on oath. How the lists are to be taken and the property taxed in such cases.

XVIII. IF any person shall give or deliver to a Commissioner, a false or fraudulent list of persons or property, subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the Commissioner, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the Commissioner shall proceed to list such person's property, agreeable to the best information he can procure; and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the Sheriff, as in other cases; and in the case of an imperfect, false, or fraudulent list, the person giving the same, shall be subject to pay a fine of fifteen dollars, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the County Court by the following mode of proceeding, and applied as herein after directed.

Mode of proceeding against the delinquents.

XIX. THE Commissioner shall give information thereof personally, or if unable to attend, in writing, under his hand, to the next Court held for his County, which Court shall forthwith direct the Clerk to issue a summons, requiring the party to appear at the next Court to be held for the County, to shew cause, if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of taxables; and the person or persons, upon being served therewith by the Sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a Jury, or the Court, at the Defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the Court, who, unless good cause shewn at the next succeeding Court, for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the Sheriff, for collection, and to the Auditor's office; the amount of which fine, after deducting thereout such allowance as the Court may think reasonable to make the Commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the County levy; and the triple tax shall be charged to the Sheriff, and accounted for in like manner as the other taxes.

Copy of the proceedings to be set up at the courthouse door.

XX. THE Clerk of the Court shall set up at the door of his Court-house, a copy of the proceedings in such cases, on the succeeding Court day.

Every person knowing any false list to be delivered, to give information to the commissioner or the court.

XXI. AND for preventing frauds or impositions upon Commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false, or fraudulent list being given a Commissioner, shall give information thereof, either to a Commissioner, or to the County Court, in like manner as the Commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the Commissioner gave information; and the person informing shall be entitled to, and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half to be applied towards lessening the County levy.

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XXII. THE Clerk of every County Court ſhall tranſmit to the Governor, a fair and atteſted copy of all proceedings had at his Court, in purſuance of this Act, immediately after every Court, noting therein the names of the ſitting Magiſtrates; which atteſted copy ſhall be admitted as proof on any motion in the General Court, by the Auditor, for the recovery of any fine impoſed by this Act.

Copy of the proceedings of the court under this act to be tranſmitted to the Governor. And to be admitted as evidence on the Auditor's motions for fines.

XXIII. THE Clerk, Juſtices, or Commiſſioners, or their legal repreſentatives, failing to perform any one of the duties impoſed on them reſpectively, by this Act, ſhall be ſubject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the Seſſions in the General Court, at the inſtance of the Auditor; notice of ſuch motion being previouſly given in the ſame manner as to delinquent Sheriffs.

Penalty on the clerks, juſtices, or commiſſioners for neglect of duty.

XXIV. IN caſe any perſon ſhould be abſent from his or her place of reſidence at the time the Commiſſioner calls to receive the liſt, and it ſhould appear to the Commiſſioner, that ſuch abſence was not intentional, or done with a view of avoiding the delivery of ſuch liſt, it ſhall be lawful for the Commiſſioner to require the attendance of ſuch abſent perſon, with his or her liſt, at any time and place within the ſaid Diſtrict, provided ſuch perſon tenders his or her liſt to the Commiſſioner, and makes oath to the juſtneſs of it, on or before the twenty-fifth day of *May*, annually; and in caſe of failure, the Commiſſioner ſhall proceed in like manner as is before directed, in caſes of refuſal to give in liſts; and the Court ſhall determine upon the circumſtances of the caſe, whether to inflict or remit the fine and triple taxes.

How the liſts are to be taken when the perſons chargeable are abſent when the commiſſioners call to receive them.

XXV. A LIST of all the inſolvents returned by the Sheriff to the Court, ſhall be tranſmitted by the Clerk to the Commiſſioners of the Revenue, to be entered in their book of taxes for that year, and no Sheriff ſhall have credit for ſuch inſolvents in his account with the public, unleſs certified by the ſaid Commiſſioners to have been allowed by the Court; and the ſaid Commiſſioner ſhall moreover tranſmit with the ſaid liſts of inſolvents, an account of the tax of any perſon who may have removed out of the County, together with the name of the County, to which they have removed; which account the Auditor is hereby directed to tranſmit to the Commiſſioners of the Revenue of the County to which they have removed, to be charged on their books, and collected by the Sheriff. An account of all fines or additional taxes impoſed by virtue of this act, ſhall be by the ſaid Commiſſioners, tranſmitted to the Auditor's office, before the firſt of *Auguſt*, annually. And the ſaid Commiſſioners ſhall ſtate in their book of taxes, a general account with the Sheriff, for all taxes, fines and additional taxes in their County, crediting him for all inſolvents, and alſo for all payments made by the ſaid Sheriff to the public, receipts for which ſhall be by the ſaid Sheriff tranſmitted to the ſaid Commiſſioners within twenty days, after obtaining the ſame, a copy of which account ſhall be by the ſaid Commiſſioners tranſmitted to the Auditor's office, before the firſt day of *May*, annually.

Liſts of inſolvents to be entered in the commiſſioners' books. And the ſheriff credited therefor. Taxes due from perſons removing from one county to another, how to be collected. Account of additional taxes and fines to be ſent to the Auditor. Commiſſioners to ſtate a general account of taxes with the ſheriff.

XXVI. THE Commiſſioners ſhall ſeverally return on oath to their reſpective Courts, a liſt of all their own taxable property, and ſhall enter the ſame in the ſeveral liſts to be by them returned to the different perſons and public officers, and on failing to comply herein, ſhall be liable to be proceeded againſt, in the ſame manner, and ſubject to the ſame penalties as in caſe of any other neglect.

To return to the courts liſts of their own property.

Form of keeping the book containing the land tax by the Commiſſioner.

Form of the book containing the taxes on lands.

Liſt of the land tax within the Diſtrict of A. B. Commiſſioner, in the County of C.

Perſons names owning land.	Number of lots.	Yearly rent of lots.	Amount of tax on lots at— in	Quantity of land.	Rate of land per acre.	Total amount of value of land excluſive of lots.	Amount of tax on lands at—per	Total amount of tax on lots and lands.
Sum total								

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Form of the commiſſioners returns of taxable property.

Form of return of taxable property to be made by the Commiſſioners.

Liſt of taxable property within the Diſtrict of A. B. Commiſſioner, in the County of C. for the year 17—

	Date of receiving liſts from individuals.	Perſons names chargeable with the tax.	Number of white males above ſixteen years.	Blacks above twelve years old.	Blacks above ſixteen years old.	Horſes, Mares, Colts, and Mules.	Ordinary licence.	Billiard Tables.	Stud Horſes.	Rates of covering per ſeaſon.	Carriage wheels.		
											Coaches, Chariots, & Poſt-Chaiſes.	Other riding four wheel Carriages.	Riding Carriages with two wheels.
Tol. amt.													

Taxes, when they ſhall become due. When diſtrainable. When to be paid into the Treaſury.

XXVII. THE taxes on lands, ſlaves, and other property ſhall hereafter become due, on the thirty-firſt day of *December* in every year, may be diſtrained for on the firſt day of *May* next ſucceeding, and ſhall be collected, accounted for, and paid in ſpecie only, into the Public Treaſury, by the Sheriff of the County, or other Collector to be appointed by virtue of this Act, on or before the firſt day of *October* next thereafter, under the penalties herein after mentioned.

In what caſes they may be diſtrained for before the time preſcribed.

XXVIII. WHEN any Sheriff or Collector of taxes ſhall have good cauſe to ſuſpect, that any perſon means to remove his property without the limits of his juriſdiction, ſo that in his opinion there may be a probability of the taxes with which ſuch perſon is chargeable, being loſt by the public, it ſhall and may be lawful for ſuch Sheriff or Collector, on making oath thereto before a Magiſtrate, and receiving a certificate of ſuch oath, to levy diſtreſs on the goods and chattels of ſuch perſon, for the amount of taxes with which he or ſhe is then chargeable, any time before the firſt day of *May*; any thing in this Act to the contrary notwithſtanding.

How to be collected when the ſheriff dies. Not to be diſtrained for after two years from the time they became due. Exception with a proviſo.

XXIX. IT ſhall and may be lawful for all Deputy-Sheriffs to collect and make diſtreſs for any taxes which may be due at the time of the death of their High Sheriffs, and ſhall be accountable for the ſame, in like manner as if the Sheriff had lived. And no Sheriff or Collector ſhall be allowed to diſtrain for any taxes, after two years from the time the taxes became due, except Sheriffs appointed prior to the year one thouſand ſeven hundred and ninety-two; who ſhall have the power of diſtraining for the taxes now due, for the term of eighteen months from the paſſing of this Act: *Provided nevertheleſs*, that no Sheriff or Collector ſhall be allowed to diſtrain for ſuch arrearages, until he ſhall have entered into bond, with ſufficient ſecurity, to be approved of by ſuch Court, to pay and ſatiſfy all ſuch damages and coſts as may be recovered againſt him, for any abuſe of the power hereby veſted in him.

How to be collected where the Sheriff & his deputies die

XXX. IT ſhall be lawful for the County Courts within this Commonwealth, to qualify any perſon or perſons, for the purpoſe of completing the collection of taxes in any County, where the Sheriff and his Deputy ſhall die, before ſuch collection ſhall be completed: and the perſon or perſons ſo appointed, after having given bond and ſecurity to the Executors or Adminiſtrators of the ſaid Sheriff, to be approved of by the Court for the faithful performance of the duties of the office, ſhall have the ſame power in all reſpects, for collecting ſuch arrears, as the High Sheriff would have had. But the acting Executors or Adminiſtrators of ſuch High Sheriff, if any ſuch there be, at the time of ſuch appointment, ſhall be ſummoned by order of the ſaid Court, to ſhew cauſe, if any they can, againſt the perſon whom the ſaid Court ſhall nominate.

XXXI. THE perſon or perſons ſo appointed, ſhall in all reſpects be ſubject to the ſame penalties, for any neglect of duty, or failing to account for and pay to the perſon or perſons authoriſed to receive the money by him or them ſo collected, and may be proceeded againſt by ſuch Executors or Adminiſtrators, in the ſame manner as Deputy-Sheriffs are liable to, and may be proceeded againſt by their principals.

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What may be distrained for taxes, levies, &c.

XXXII. IN case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the Sheriff or Collector shall have power to distrain the slaves, goods or chattels which shall be found upon the lands, or in possession of the person so indebted or failing, notwithstanding such slaves, goods or chattels, shall be comprised in any deed or mortgage.

When goods distrained may be sold.

XXXIII. IF the owner thereof shall not pay such tax, levy, fine, forfeiture, or amercement, within five days after such distress, such Sheriff or Collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money; which sale shall be good and effectual in Law, against all persons whatsoever.

How the taxes on lands are to be collected when the sheriff cannot find effects on the same to pay the tax thereon.

XXXIV. THE Sheriff or Collector of the taxes within this Commonwealth, shall at the time he returns a list of other Insolvents, return a list of the lands within his County, or Corporation, where he cannot find effects within the same, belonging to the Owner or Tenant thereof, sufficient to pay and satisfy the tax; and if the Court shall be satisfied of the truth thereof, they shall admit the Sheriff or Collector to make oath thereto, and direct the same to be certified to the Auditor of public accounts, together with the names of the Owners of each tract of land, and the place of his or her abode, where the Court can obtain such information. The Auditor shall credit the same in account for the land tax, with such Sheriff or Collector. And where it shall appear to the Auditor from the certificates of the County Courts, or where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other County of this Commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable, to the Sheriff or Collector of the County in which such person may reside, or have slaves or personal property, (as the case may be) and shall debit such Sheriff or Collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor, in like manner as for other taxes of his County. A list of these Insolvents, with the amount of the tax due from them respectively, shall be furnished by the Clerk of the Court to the Collector of the tax for the succeeding year, and he shall transmit a copy thereof to the Auditor of public accounts, who shall debit the Sheriff or Collector therewith; and such Sheriff or Collector shall distrain and account for the same, in like manner as for other taxes, and in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the Treasurer shall cause to be inserted in the *Virginia* Gazette, for three weeks successively, the names of such delinquents, with the quantity of land, the situation thereof, and the taxes due thereon.

When lands shall be forfeited for the non-payment of taxes. How a title thereto may be acquired.

XXXV. IN case the tax on any tract of land within this Commonwealth, shall not be paid for the space of three years, the right to such lands shall be lost, forfeited and vested in the Commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed by an Act, intituled, "*An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated lands, for settling the titles and bounds of lands; directing the mode of processioning, and prescribing the duty of Surveyors.*"

Saving the rights of infants, *femes covert*, or lunatics.

XXXVI. *PROVIDED always*, That nothing herein contained shall affect the right of infants, *femes covert*, or persons of unsound mind, who shall be allowed three years to save the same from forfeiture, after such disability be removed.

Tenant paying the taxes may deduct it out of the rent, unless he is bound to pay it.

XXXVII. AND where any Tenant shall be distrained for the taxes due from the proprietor of the land, he shall have credit for the same against such proprietor out of the rents he may owe him; but this Act shall not be construed to destroy or impair any contract, by which the Tenant may be bound to pay the said land tax, or any part thereof.

When the clerks of courts are to account for and pay taxes collected by them.

XXXVIII. THE Clerks of the several Courts within this Commonwealth, shall, respectively, on or before the first day of *April*, and first day of *October* in every year, account for on oath, and pay into the public treasury, all the monies which by Law they shall be authorised to receive on public account, after a deduction of five *per centum* therefrom, as a commission. And in case of fraud herein by any Clerk, he shall on conviction thereof be deprived of his office.

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Repealing clause. Proviso.

XXXIX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall prevent the collection and recovery of any arrearages of taxes due before the commencement of this Act, but such arrearages shall be collected, paid, and distrained for, and recovery had against all delinquents, and the damages on failure of payment thereof, shall be the same as if this Act had not been made.

Commencement of this act.

XL. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXXIV.

To reduce into one, the several Acts concerning the Recovery of Debts due to the Public, and the Sale of Lands for Judgments on behalf of the Commonwealth, against Public Officers.

[Passed the 30th of November, 1792.]

Mode of proceeding against persons misapplying money received from the Treasury for public use.

I. BE *it enacted by the General Assembly*, That when any person who hath received, or shall receive public money from the Treasurer for public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the Commonwealth, made to any Court of Record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said Court may give judgment and award execution against him and his sureties, for so much as a Jury, to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages to be assessed by the Jury, and costs.

Against persons contracting to supply the army, &c. for breach of contract.

II. WHEN the Attorney prosecuting on behalf of the Commonwealth, shall commence an action for breach of a contract, which hath been, or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ, he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer, to whom that is directed, and served upon the Defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the Defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a Jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the United States of *America*, may, by the like remedy, on behalf and in the name of the said States, recover money due to them.

The same remedy extended to the United States.

And to public contractors against persons contracting with them.

III. AND whereas divers persons have, and hereafter may enter into contracts with the agents or contractors, for victualling and cloathing the army and navy, and have or may fail, or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the Plaintiff shall have the same remedy and redress, as is herein before directed, in suits which may be brought on behalf of the Commonwealth.

Mode of proceeding against persons indebted to the public, by bond, bill, note, &c.

IV. IT shall and may be lawful for the General Court to give judgment with costs, at the motion of the Auditor, on ten days previous notice, against any person or persons indebted to the Commonwealth, by bond or other specialty, whether the same be taken in the name of the Governor or Treasurer, or any other person acting in a public character, for or on behalf of the Commonwealth, and also to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering accounts, or other duties.

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V. WHERE any person or persons have been, are, or may hereafter be indebted to the Commonwealth, either in specie or other articles, collected or otherwise received, for or on behalf of the Commonwealth, and such person or persons, on a settlement with the Auditor, have obtained a *quietus*, and where judgment hath been, or may be obtained in favour of the Commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a *quietus* may have been or shall hereafter be obtained, by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the Commonwealth, in the settlement of such account, judgment, or execution, in all or any of these cases, it shall and may be lawful for the General Court, to give judgment on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the Court.

Against a public debtor where an error in his favour is discovered in any adjusted account.

VI. AND when it shall appear after settlement, that by error or mistake any person shall or may have have paid more to the Commonwealth than was really due, such person shall have the same remedy by motion with notice, against the Auditor, as is by this Act given to the Commonwealth.

The like remedy to him if he has overpaid,

VII IF any Sheriff or Collector of the public taxes, shall fail to account for and pay into the Public Treasury, the taxes by him received, in manner and at the time prescribed by Law, every such delinquent Sheriff or Collector, shall be liable to a judgment against him on motion, to be made by the Auditor, or other person appointed for that purpose, at the *November* General Court, or any subsequent Court after such failure, for the amount of the taxes due, and five *per centum* damages, together with an interest of five *per centum per annum*, upon the whole amount, until paid, for the use of the Commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made.

Against sheriffs who fail to account for public taxes.

VIII. NO petition or petitions shall in future be received from any Sheriff or Collector of the Public Revenue, or their security or securities, or from any person or persons directly or indirectly in their behalf, unless such Sheriff or Collector shall previous to such application, advertise at the door of his Courthouse, on one Court day at least, a list of the persons in arrears for taxes, in his County, together with the balances due from such persons respectively, making oath to the same before the Court of the County in which he or they respectively reside, which oath shall be committed to record and list filed in the Clerk's office; and the said Sheriff or Collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the Clerk of his or their respective County Courts.

Regulation respecting petitions from delinquent sheriffs.

IX. LANDS and tenements shall and may, by virtue of writs of *fieri facias*, be taken and sold in satisfaction of all judgments which have been obtained after the seventh day of *January*, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the Commonwealth, against any Sheriff, Coroner, or other public Collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become so before the said seventh day of *January*, one thousand seven hundred and eighty-eight.

Lands of public collectors and their securities may be sold to discharge the commonwealth's judgments against them in certain cases.

Proviso in favour of securities in certain cases.

X. EVERY judgment obtained against any Sheriff, Coroner, or other public Collector, shall bind the property of the lands and tenements of such public debtor, from the date thereof.

Land bound from the date of the judgment.

XI. WHEN the goods and chattels taken in execution to satisfy a judgment of the Commonwealth by virtue of a *fieri facias*, shall not, in the opinion of the Officer levying the same, be sufficient to satisfy the debt with damages and costs, the Sheriff or other Officer shall, at the same time, give public notice at the Churches and Meeting-houses, if any there be, and Court-house of his County at the next Court day, and shall moreover give notice to the owner, if he be in the County, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the County as the owner shall by writing under his hand delivered to the Officer, direct.

Notice of the time and place of sale, how to be given.

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Debtor having ſeveral parcels of land may direct which ſhall be ſold.

XII. IF the public debtor againſt whom a judgment hath been entered ſubſequent to the ſaid ſeventh day of *January*, one thouſand ſeven hundred and eighty-eight, or ſhall be hereaſter entered, have ſeveral parcels of land which lie in one and the ſame County, he or his agent may by writing under his hand at any time before the day of ſale, require the Sheriff or Officer to whom a writ of *fieri facias* upon the judgment ſhall be directed, to make the debt or damages and coſts of ſuch of the ſaid parcels of land as the owner or his agent ſhall think proper; and if the parcels lie in different Counties, the Clerk ſhall and may at the like requeſt in writing, direct the *fieri facias* to the Sheriff or Officer of any County which the party or his agent, making oath or ſolemn affirmation that he hath lands there, ſhall particularly mention, at any time before the writ ſhall be delivered to the Officer. And if the debt, damages, and coſts be made of any other parcel of land, or of lands lying in any other County than that mentioned in ſuch written requiſition, the ſale of ſuch other parcel of the land in ſuch other County ſhall be void.

Sale how to be made.

XIII. IF the owner of the land before or at the day of the ſale, ſhall not make payment of the debt due to the Public, the Sheriff or Officer ſhall proceed to ſell the ſaid lands and tenements, or ſuch eſtate and intereſt as the party convict ſhall have therein, or ſo much thereof as will be ſufficient, laid off in one entire parcel, if it may be done, in ſuch place and manner as he or his agent, if he think proper, ſhall direct, for ready money, or other property, as the demand may be, and the coſts: But if the eſtate cannot be ſold for three-fourths of its value, in the opinion of the valuers of the County, or in the opinion of ſuch other perſon as may be by Law directed, he ſhall ſell the ſame upon three months credit, taking bond of the purchaſers, with ſufficient ſurety or ſureties for the payment, to the Chief Magiſtrate of this Commonwealth for the time being.

Where the eſtate cannot be ſold for three-fourths of its value, the officer may ſell upon three months credit.

Proceedings on the bonds taken in purſuance of this act.

XIV. EVERY bond thus taken, ſhall mention on what occaſion the ſame was taken, and ſhall by the Sheriff or Officer be immediately returned to the Clerk's office from whence it iſſued, there ſafely to be kept, and when due, execution thereon may be awarded in the ſame manner, and on the ſame conditions that executions are now awarded on replevy bonds, and ſhall in like manner be indorſed by the Clerk, "that no ſecurity is to be taken."

Conveyances to be made by the officer to the purchaſer at his coſts.

XV. IN all ſales of lands by virtue of an execution, the Sheriff or other Officer ſhall convey the ſame to the purchaſer at his coſts, by deed in writing, ſealed, and recorded as the Laws direct for other conveyances of land: which deed ſhall recite the execution, purchaſe, and conſideration, and ſhall be effectual for paſſing to the purchaſer all the eſtate and intereſt which the debtor had, and might lawfully part with in the lands. *Provided nevertheleſs*, that if any Sheriff or other Officer who may have made ſale of lands by virtue of any execution to him directed, on the part of the Commonwealth ſhould die, or remove out of the State, before deeds made in conformity to ſuch ſale or ſales, then it ſhall and may be lawful for the next ſucceeding Sheriff or other Officer, to convey the ſame to the purchaſer or purchaſers thereof, in as full and ample manner as his predeceſſor in office might or ſhould have done.

Proceedings againſt the ſecurities of public collectors.

XVI. IF the lands and tenements, goods and chattels, of any Sheriff, Coroner, or other public Collector, are inſufficient to ſatisfy the debt, damages, and coſts, due to the Public, judgment ſhall be obtained againſt his ſecurity or ſecurities in the ſame ſummary way that judgment may by Law be obtained againſt his or their principal, and the lands and tenements, goods and chattels of ſuch ſecurity or ſecurities, except as before excepted, ſhall be taken in execution to ſatisfy the balance of ſuch debt, damages, and coſts, in the ſame manner as the lands and tenements, goods and chattels of his or their principal, may be taken and ſold agreeable to this Act.

Clerks to inſert "lands and tenements" in executions againſt public collectors.

XVII. IN every writ of *fieri facias* upon judgments which have been obtained ſubſequent to the ſaid ſeventh day of *January*, one thouſand ſeven hundred and eighty-eight, or hereafter to be obtained by the Commonwealth, againſt any Sheriff, Coroner, or other public Collector, or the ſecurities of them, or either of them, after the words, "We command you that of the" the Clerk from whoſe office ſuch writ ſhall iſſue, ſhall inſert the words "lands and tenements," and conform the ſubſequent part of ſuch writ thereto.

Executive may direct

XVIII. WHERE the property of any Sheriff, Coroner, or other public Collector, or their ſecurities, has been taken in execution to ſatisfy a judgment obtained by the Com-

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monwealth, and the ſame was not ſold for want of buyers, and return thereon hath been made to that effect, or where the property of any Sheriff, Coroner, or other Public Collector, or their ſecurities, have been expoſed to ſale by virtue of any writ of *venditioni exponas*, to ſatisfy a judgment obtained by the Commonwealth, and could not be ſold for want of buyers, and return hath been made to that effect, in either of the above caſes, it ſhall and may be lawful for the Executive, and they are hereby authoriſed and required to direct the officer, to whom any ſubſequent proceſs in either of the above caſes ought to iſſue, provided ſuch property cannot be ſold agreeable to the directions of ſuch ſubſequent proceſs, to cauſe ſuch property to be removed to ſuch place in any adjacent County, as the Executive may direct, and there to be ſold for money or government ſecurities, on ſuch terms, and in ſuch proportions as they ſhall judge expedient: *Provided*, that if ſuch property will not ſell for three-fourths of its value, in the judgment of the valuers of the County, or in the judgment of ſuch other perſon as may be by Law directed, where the ſale ſhall be made, the Sheriff or other Officer ſhall ſell the ſame on three months credit, and ſhall take bonds in the ſame manner, and the like proceedings ſhall be had thereon, as is herein before directed, in caſes of bonds taken on the ſale of lands and tenements ſold by virtue of this Act.

Property of public collectors under execution heretofore ſerved, to be removed to an adjacent county.

Proviſo.

XIX. IN every caſe where any writ of *fieri facias*, or *venditioni exponas* iſſues againſt the eſtate of a Sheriff on behalf of the Commonwealth, if by Law the ſame ought to be directed to a Sheriff, ſuch writ or writs ſhall be executed by the High Sheriff.

Executions againſt ſheriffs to be ſerved by the high ſheriffs.

XX. IN like manner where any writ of *fieri facias*, or *venditioni exponas* ſhall hereafter iſſue at the inſtance of the Commonwealth, againſt the eſtate of any Sheriff, Coroner, or other Public Collector, or their ſecurities, and the goods and chattels of ſuch debtor cannot be ſold for want of buyers, the Executive ſhall direct the property to be removed and ſold as above directed, in caſes of ſuch Sheriffs, Coroners, Public Collectors, and ſecurities, whoſe property has not been ſold for want of buyers.

Executive may direct the property of public collector under execution, to be removed to an adjacent county.

XXI. IT ſhall be the duty of the Auditor forthwith to acquaint the Executive when their interpoſition is, or hereafter may become neceſſary, to the carrying this Act into effect.

To be informed when their interpoſition is neceſſary.

XXII. THE Auditor, immediately on the return of any proceſs which he ſhall ſuſpect was fraudulently executed, ſhall give notice thereof to the Executive, whoſe duty it ſhall be to direct the Attorney of the Commonwealth for ſuch Diſtrict, County, or Corporation, to file an information thereupon, in which like proceedings ſhall be had as in other caſes of information; and if it ſhall appear that ſuch ſale was fraudulently made, the property of any thing thus fraudulently ſold, ſhall not be changed, but remain ſubject to the demand of the Commonwealth, and the Officer who executed ſuch proceſs, if he be concerned in ſuch fraud, ſhall ever after be rendered incapable of being appointed to any office of honor or profit.

And of proceſs fraudulently ſerved.

Fraudulent ſales under ſuch proceſs to be void; and the officer diſqualified for any office.

XXIII. AND whereas Sheriffs and other Public Collectors in ſome inſtances have proceeded to collect the Public Revenue, without having entered into bond with ſecurity, for the faithful performance of that duty, which cannot be recovered from ſuch Collectors, except by the tedious proceſs of Law; For remedy thereof, *Be it enacted*, That every Sheriff, or other Public Collector, who may have attempted the collection of any of the different ſpecies of taxes in any County or Corporation in this State, ſhall be liable to a judgment and execution for the ſame ſum, and in the ſame ſummary way, as if ſuch Sheriff or other Public Collector had actually given ſecurity agreeable to Law.

Summary remedy againſt collectors who have failed to give bond and ſecurity.

XXIV. IN all executions founded upon judgments, which were obtained prior to the ſeventh day of *January*, one thouſand ſeven hundred and eighty-eight, where it may be neceſſary to remove any property by virtue of this Act, the extra expences attending ſuch proceſs, ſhall be diſcharged by the Commonwealth; but in all executions upon judgments obtained after the day laſt mentioned, or hereafter to be obtained, ſuch additional expences ſhall be paid by the owner of the property, and taxed in the coſts of the proſecution.

Expence attending removal of collectors property under execution, how to be defrayed.

XXV. ALL Sheriffs, Coroners, or other perſons authoriſed to levy executions of any kind on behalf of the Commonwealth, and failing ſo to do according to Law, or withhold-

Penalty on officers failing

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to serve or return executions.

ing any such execution for any longer time than one month after the return day, shall forfeit and pay to the Commonwealth, at the rate of fifteen *per centum per annum*, on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned.

For a false return.

XXVI. AND any Officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five *per centum* on the amount of such execution.

For failing to pay money received under execution.

XXVII. AND in case any Sheriff, Coroner, or other Officer, shall levy on behalf of the Commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such Sheriff or other Officer so failing, shall forfeit and pay to the Commonwealth, double the damages, and double the interest, to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the Treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the Sheriff or other Officer failing to pay to the Treasurer within one month after the return day of such execution, shall forfeit and pay at and after the rate of twenty *per centum per annum* on the amount.

When executions may be directed to persons, other than the sheriffs.

XXVIII. UPON all executions of *fieri facias* already issued, or hereafter to be issued, and which shall have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process, may at the discretion of the Auditor be directed to such person, specially by name as was High Sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process, until the debt be fully paid, notwithstanding such person's time as Sheriff of the County be expired.

Penalty on a deputy sheriff failing to add the name of his principal to a return.

XXIX. AND all and every Deputy Sheriff levying any execution for, or on behalf of the Commonwealth, shall, on failing to sign in addition to his own name, the name of the High Sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the High Sheriff's name, or the amount of such execution be actually paid; and in case of inability in any Deputy Sheriff to pay such fine, the same may be recovered of the High Sheriff, which he may hereafter recover of such Deputy, by motion in the Court of his County, on giving ten days previous notice to the Deputy so failing.

When the performance of a duty shall not bar the recovery of a fine already incurred.

XXX. NO compliance with such duties as are by this Act prescribed, after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures.

Method of proceeding where the property of a public debtor is under any lien or incumbrance.

XXXI. IN all cases of *fieri facias* not levied, by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the Sheriff holding such execution, shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance, under which a claim is set up, and in what Court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what Court they were issued, in order that the Auditor may institute such proceedings, as the Attorney General may direct against all persons concerned, in order to have their claims or demands fully ascertained; and all Courts wherein such proceedings shall or may be instituted, are hereby authorised to give the preference in hearing all such cases before others of any kind or nature soever, and to quicken the same by such rules as to them shall seem expedient.

Penalty for interrupting the sale of any public debtor's estate.

XXXII. IF any person shall attempt to stop, interrupt, or injure the sale of the estate of any public debtor, taken by virtue of an execution, by any fraudulent execution, conveyance or incumbrance whatsoever, he shall forfeit to the Commonwealth the sum of three hundred dollars.

XXXIII. ALL fines and forfeitures inflicted by this Act, shall be recovered by the Auditor on behalf of the Commonwealth, by motion in the General Court with costs, on giving ten days previous notice. *Provided always*, that upon a prosecution instituted for any fine or forfeiture inflicted by this Act, a Jury shall be impannelled to try the facts, if it shall be desired by the party prosecuted. Fines and forfeitures how to be recovered.

XXXIV. THE Defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may, on application to the Governor and Council, obtain a remission either of the whole or part, as to the Governor, with advice of Council, may seem reasonable and proper. Remission of them how to be obtained.

XXXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act, shall in any wise extend to or affect, any duty, fine, forfeiture, penalty, or remedy of, for, or concerning any matter or thing before the commencement of this Act. Former acts repealed.

XXXVI. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. LXXXV.

An Act to reduce into one, the several Acts concerning the Auditor and Treasurer.

[Passed the 15th of December, 1792.]

I. BE *it enacted by the General Assembly*, That there shall be one Auditor for public accounts, to be chosen from time to time, as a vacancy may happen, by joint ballot of both Houses of Assembly, and to continue in office until removed by the joint vote of both the said Houses, or by the Executive during the recess of the Assembly. And where any person so appointed, shall refuse to act, shall resign, or die during the recess of Assembly, it shall be lawful for the Governor, with the advice of the Council of State, to appoint some other fit and able person to act in his stead, until the next meeting of the General Assembly. The Auditor so appointed, shall not be capable of acting until he shall have taken the oath of fidelity to the Commonwealth, and also an oath impartially, and honestly to execute the duties of his office; which oath shall be taken before the Judge of the High Court of Chancery, or either of the Judges of the General Court, and by him shall be certified to his next succeeding Court, and entered of Record. The Auditor now in office by former appointment, is hereby continued therein. Auditor, how appointed, qualified and removeable.

II. IT shall be the duty of the Auditor, assisted by so many Clerks as the Executive may think necessary, to examine, state, settle, and audit all accounts, claims or demands whatsover, against the public, arising under any Law or Resolution of the General Assembly; and to grant to every public claimant, authorised by Law to demand the same, a warrant on the Treasurer, for the sum due, signed with his own hand and name, and attested in the hand and name of one of his Clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The Auditor on the last day of *September* in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of *October*. There shall also be an account stated against the Treasurer of the Commonwealth. His duty. To be assisted by as many clerks as the Executive may think necessary.

III. IT shall be the duty of the Auditor, to call upon and proceed against all public debtors, for the balances due to the Public. To proceed against public debtors.

IV. IT shall and may be lawful for the Auditor on behalf of the Commonwealth, to move for judgments on any day during the sitting of the General Court, against any person or persons indebted to the Public, and against any person or persons indebted to the Public by duty bonds, in the General Court, or County Court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper In what manner.

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Officer; the charges of giving which notice, being first paid by the Public, shall be recovered of the person against whom such execution issued, in the same Court, and in the same manner, as debts due to the Public are allowed to be recovered; and on such executions, the Clerk shall endorse "No security to be taken."

To give bond and security for the faithful discharge of his office.

V. ANY person hereafter appointed Auditor, shall give bond with such security as shall be approved by the Governor, with the advice of Council, in the sum of thirty thousand dollars, payable to the said Governor, or his successors, in trust, for the use of the Commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the General Court.

Persons aggrieved by his disallowing or abating any claim, how redressed.

VI. WHERE the Auditor acting according to his direction and judgment, shall disallow, or abate any article of demand against the Commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the High Court of Chancery, or the District Court, holden at the City of *Richmond*, according to the nature of his case, for redress, and such Court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the Commonwealth, any right in Law or Equity.

The chief clerk to act in case of sickness of the auditor.

VII. THE chief Clerk of the Auditor, shall, in case of the sickness of the Auditor, perform the duties of his office.

Treasurer, his continuance in office. How qualified.

VIII. THE public Treasurer may continue in office without re-election, until the end of the Session of General Assembly, next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to Act, he shall give bond to the Governor, with securities, to be approved by the Council of State, in the penalty of one million of dollars, payable to the Commonwealth, with condition, that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the Commonwealth, before some Court of Record, or before a Judge or Justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such Court.

Vacancy during the recess of the assembly to be supplied by the Executive.

IX. WHEN the office shall become vacant, during the recess of the General Assembly, the Governor, with the advice of the Council of State, shall appoint a successor to act, until such time as he, or another shall be legally elected.

How the treasurer in office shall proceed against his predecessor for the balance which may be due from him to the public.

X. UPON a motion made to the General Court, by a succeeding Treasurer, on behalf of the Commonwealth, whereof more than ten days notice in writing shall have been given to the Obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by payment of so much, as a Jury, to be impannelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the Defendants make default, shall find to be due by breach of the condition aforesaid, with costs.

How he shall keep his accounts.

XI. THE Treasurer, in books provided at the public expence, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of Acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the Commonwealth, but shall thereby be rendered incapable of any office of public trust.

Penalty for misapplying public money.

His clerks.

XII. THE Treasurer shall be allowed as many Clerks as the Executive shall judge necessary.

Not to pay or receive money but on warrant or certi-

XIII. IT shall not be lawful for the Treasurer to pay or receive any money on account of the Public, but on warrant or certificate from the Auditor, unless in cases where any future Act of Assembly shall in express words, and not by inference or implication only,

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declare that in that particular case it is to be understood as the intention, that the claim specified by such Act, shall not be audited in the regular course; save only, that the salary of the said Auditor, together with the accounts for the expences of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the Treasurer by the Governor and Council. ficate from the auditor. Exception.

XIV. THE Executive shall have the controul and superintendance of the Auditor's and Treasurer's offices respectively, as the same are now established by this Act, with power to remove the Auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of Assembly, subject to their approbation. A Committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what charges or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same. The Auditor's and Treasurer's offices to be under the controul of the Executive.

XV. ALL instructions by the Executive in pursuance of the powers hereby vested in them, shall be executed, any law to the contrary notwithstanding.

XVI. THE Treasurer for the time being shall have a right to vote according to the number of shares which this Commonwealth holds in *Patowmack*, *James River*, and *Dismal Swamp Canal* Companies, in person, or by proxy, appointed by him, at the meetings of the said companies, and shall receive the proportion of the tolls which shall from time to time become due to this state, from the shares aforesaid. The Treasurer to represent the Commonwealth in the *Patowmack*, *James* river, and *Dismal Swamp Canal* companies.

XVII. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. Repealing clause.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. LXXXVI.

An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the Terms and Manner of granting waste and unappropriated Lands; for settling the Titles and Bounds of Lands; directing the Mode of Processioning, and prescribing the Duty of Surveyors.

[Passed the 17th of December, 1792.]

I. BE *it enacted*, That all grants of lands shall issue from the Land-Office, in manner and form herein after mentioned: Grants of lands to issue from the land-office.

II. A REGISTER of the said Land-Office shall be appointed from time to time by joint ballot of both Houses of Assembly, who shall give bond with sufficient security to the Governor or first Magistrate of this Commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a Deputy and Clerks to assist in executing the business of the said Office, but shall nevertheless reside there himself. Register how appointed and qualified.

III. IF any vacancy shall happen by the death, resignation, removal, or other legal disability of a Register, during the recess of the General Assembly, the Governor, or first Magistrate of the Commonwealth, by and with the advice of the Council, may appoint some other person, giving bond and security in like manner, to act as Register of the said Office, until the end of the next Session of Assembly.

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Copies atteſted by him as good evidence as the originals.

IV. ALL copies of the Records, and other papers now being, or which ſhall hereafter be in the ſaid Office, including thoſe which have been removed from the Office of the late Proprietor of the *Northern Neck*, duly atteſted by ſuch Regiſter, ſhall be as good evidence as the originals would be.

Title to waſte lands, how to be acquired.

Conſideration money for waſte lands.

Warrants for ſurveys.

Conſideration money for lands forfeited for non-payment of taxes.

V. *AND be it enacted*, That any perſon may acquire title to ſo much waſte and unappropriated land lying within this Commonwealth, as he ſhall deſire to purchaſe, on paying the conſideration of two dollars for every hundred acres; which conſideration may be paid in ſpecie, or in Auditor's warrants, or audited certificates, and ſo in proportion for a greater or ſmaller quantity, and obtaining certificate from the Auditor of public accounts in the following manner: The conſideration money ſhall be paid into the hands of the Treaſurer, who ſhall give to the purchaſer a receipt for the payment, ſpecifying the purpoſe it was made for; which being delivered to the Auditor, he ſhall give to ſuch perſon a certificate thereof, with the quantity of land he or ſhe is entitled to, and, upon lodging the ſame in the Land-Office, the Regiſter thereof ſhall grant to ſuch perſon or perſons, his or their heirs or aſſigns, a printed warrant under his hand, and the ſeal of his Office, ſpecifying the quantity of land, and the rights upon which it is due, authoriſing any Surveyor, duly qualified according to Law, to lay off and ſurvey the ſame, and ſhall regularly enter and record in the books of his Office, all ſuch certificates, and the warrants iſſued thereupon, which warrants ſhall be always good and valid until executed by actual ſurvey, or exchanged in the manner herein after directed: *Provided always*, That no warrant ſhall iſſue to be located on any lands which may veſt in the Commonwealth on account of the non-payment of the taxes thereon, unleſs the perſon applying for the ſame ſhall pay in conſideration thereof at the rate of one hundred dollars for every hundred acres; and, for the better direction of the Surveyors, the Regiſter ſhall expreſs in the warrant what ſum was paid therefor.

Certain lands reſerved as a common, and grants thereof declared void.

VI. *PROVIDED alſo*, That all unappropriated lands on the bay of *Cheſapeake*, on the ſea ſhore, or on the ſhores of any river or creek, and the bed of any river or creek in the Eaſtern parts of this Commonwealth, which have remained ungranted by the former government, and which have been uſed as a common to all the good people thereof, ſhall be, and the ſame are hereby excepted out of this Act; and no grant iſſued by the Regiſter of the Land-Office for the ſame, either in conſequence of any ſurvey already made, or which may hereafter be made, ſhall be valid or effectual in Law to paſs any eſtate or intereſt therein.

Surveyors how examined and commiſſioned.

One ſixth of their fees appropriated to the college of William and Mary. Tenure of office. How qualified.

VII. EVERY perſon who ſhall hereafter deſire to become a Surveyor, ſhall be nominated by the Court of his County, examined, and certified able by the Preſident and Profeſſors of *William* and *Mary* College, and if of good character, commiſſioned by the Governor, with a reſervation in ſuch commiſſion to the ſaid Profeſſors, for the uſe of the College, of one ſixth part of the legal fees that ſhall be received by ſuch Surveyor; for the yearly payment of which, he ſhall give bond with ſufficient ſecurity to the Preſident and Maſters of the ſaid College; he ſhall hold his Office during good behaviour, and before he ſhall be capable of entering upon the execution of his Office, ſhall before the Court of the ſame County, take an oath, and give bond, with two ſufficient ſecurities, to the Governor and his ſucceſſors, in ſuch ſum as he, with advice of Council, ſhall have directed, for the faithful execution of his Office.

Their deputies how appointed.

Their power and reward.

VIII. ALL Deputy-Surveyors ſhall be recommended by their principals to the Court of the County, of which ſuch ſuch principal may be Surveyor; the Court ſhall thereupon appoint and direct one or more fit perſons, to examine into the capacity, ability, and fitneſs of the perſon or perſons ſo recommended; and upon a certificate of ſuch examination, and report of the capacity, ability, and fitneſs of the perſon or perſons ſo recommended, the ſaid Court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whoſe conduct, in every reſpect touching his Office, the principal Surveyor ſhall be anſwerable; and all deputies ſo appointed, ſhall have power and authority to act and do in all things, and to every intent and purpoſe, as the principal Surveyor, except in caſes otherwiſe provided by this Act; and ſhall thereupon be entitled to one half the fees received for ſervices performed by them reſpectively, after deducting the proportion thereof due to the College. If any principal Surveyor ſhall fail to nominate a ſufficient number of deputies to perform the ſervices of his Office in due time, the Court of the County ſhall

direct what number he shall nominate; and in case of failure, shall nominate for him. And if any Deputy-Surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his Office, sum of money in gross, or other valuable consideration to his principal, for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such Office: *Provided always,* That any Deputy-Surveyor shall be removeable from Office, at the discretion of his principal.

Penalty for giving the principal more.

How removeable.

IX. EVERY Surveyor of lands, shall hereafter be resident in the County whereof he is Surveyor, during the time he shall continue in office, under the penalty of forfeiting six hundred dollars for every month he shall reside out of the same, unless detained by such business as the Court of the County shall judge reasonable; one moiety shall be to the Commonwealth, for the better support of this government and the contingent charges thereof, and the other moiety to the informer.

Surveyors to reside in the counties wherein they are appointed.

X. WHERE any person shall hold a warrant from the Land-Office, or be desirous to make an entry in any County on the Eastern waters, for vacant and unappropriated land, and there shall be no Surveyor qualified to act in such County, then it shall and may be lawful for such person to make such entry with the Clerk of the County Court, and the same surveyed by any legal Surveyor of the next or neighbouring County, shall be good and sufficient to enable such person to obtain a patent or grant for the same.

How entries and surveys may be maden on the Eastern waters where there is no surveyor.

XI. *PROVIDED always,* That the Surveyors of the Counties of *Monongalia, Harrison, Randolph,* and *Ohio,* shall not be accountable to the President and Masters of *William* and *Mary* College, for any part of the fees which have accrued to them for services subsequent to the first day of *January,* one thousand seven hundred and eighty-eight, or shall hereafter accrue; and the bonds given by them for the yearly payment of one sixth part of their fees to the President and Masters of the said College, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of *January,* in the year last mentioned, or shall hereafter become due.

Surveyors of certain counties not accountable to *William* and *Mary* College for the one sixth of their fees;

XII. *PROVIDED nevertheless,* That each of the Surveyors of the said Counties of *Monongalia, Harrison, Randolph,* and *Ohio,* hereafter to be appointed, shall, within one month after he shall be required by the Board of Trustees of the *Randolph* Academy, give bond with sufficient security, in a reasonable sum, for the yearly payment of one sixth part of the fees which he shall receive, to the said Trustees, for the use of the said Academy; and in case any one of the said Surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said Trustees, the sum of three hundred dollars annually, to be recovered by motion in the Court of the County of such Surveyor, upon giving him ten days previous notice of such motion.

But to pay the same to the *Randolph* Academy.

XIII. EVERY person having a land warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief Surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely, as that others may be enabled with certainty to locate other warrants on the adjacent residuum; which location shall bear date the day on which it shall be made, and shall be entered by the Surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries.

Land warrants to be lodged with the principal surveyor.

Locations to be precisely made and entered in a book.

XIV. AND if several persons shall apply with their warrants at the office of any Surveyor at the same time, to make entries, they shall be preferred according to the priority of the dates of their warrants; but if such warrants be dated on the same day, the Surveyor shall settle the right of priority between such persons by lot.

Preference where several applications to locate the same land.

XV. AND every Surveyor shall, at the time of making entries for persons not being inhabitants of his County, appoint a time for surveying their land, and give notice thereof in writing to the persons making the same; and if on such application at his office, the Surveyor shall refuse to enter such location, under pretence of a prior entry for the same lands made by some other persons, he shall have a right to demand of the said Surveyor, a view of the original of such prior entry in his book, and also an attested copy of it.

Notice of time of surveying to persons out of the county.

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How a ſurveyor may locate his own warrants.

XVI. ANY chief Surveyor having a warrant for lands, and deſirous to locate the ſame within his own County, ſhall enter ſuch location with the Clerk of the County, who ſhall return the ſame to his next Court, to be there recorded; and the ſaid Surveyor ſhall proceed to have the ſurvey made as ſoon as may be, or within ſix months at fartheſt, by ſome one of his deputies, or if he hath no deputy, then by any Surveyor or Deputy-Surveyor of an adjacent County; and in caſe of failure, his entry ſhall be void, and the land liable to the entry of any other perſon.

When and how ſurveys of located lands are to be made.

XVII. EVERY chief Surveyor ſhall proceed with all practicable diſpatch, to ſurvey all lands entered for in his office, and ſhall, if the party live within his County, either give him perſonal notice of the time at which he will attend to make ſuch ſurvey, or ſhall publiſh ſuch notice, by fixing an advertiſement thereof on the door of the Court-houſe of the County, on two ſeveral Court days; which time, ſo appointed, ſhall be at leaſt one month after perſonal notice given, or after the laſt advertiſement ſo publiſhed; and if the Surveyor ſhall accordingly attend, and the party, or ſome one for him, ſhall fail to appear at the time, with proper chain carriers, and a perſon to mark the lines, if neceſſary, his entry ſhall become void, the land thereafter ſubject to the entry of any other perſon, and the Surveyor ſhall return him the warrant, which may, notwithſtanding, be located anew, upon any other waſte or unappropriated lands, or again upon the ſame land, where it hath not in the mean time been entered for by another perſon.

XVIII. AND whereas many inconveniences have ariſen from the inattention of Surveyors to the variation of the magnetic needle, in re-ſurveying lands which were formerly ſurveyed, when the variation was very different from what it is now, and many miſtakes and much confuſion may ariſe in comparing future ſurveys with the preſent: For remedy whereof, *Be it enacted,* That every Surveyor ſhall, under the penalty of fifteen dollars, expreſs and declare, in or on the plat and return of each ſurvey, by him or them taken or made, the true quantity or degree of the variation aforeſaid, and whether it be eaſt or weſt.

Variation of the magnetic needle to be expreſſed in plats of ſurveys.

Proviſo.

XIX. *PROVIDED always,* That when any Surveyor ſhall be called upon, or ordered to re-ſurvey any lands, that may have been ſurveyed before the firſt day of *June,* in the year of our Lord, one thouſand ſeven hundred and ſeventy-three, ſuch ſurveyor ſhall or may re-ſurvey ſuch lands, according to the mode of ſurveying by the magnetic meridian, but ſhall, nevertheleſs, under the penalty aforeſaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making ſuch re-ſurvey, and ſhall alſo, in the ſaid plat and return, certify (where the ſame can be done) the quantity or degree of variation between the original lines of ſuch former ſurvey, from the true meridian aforeſaid.

Penalty for failure how recoverable.

XX. THE penalty of fifteen dollars aforementioned, may be recovered by any perſon or perſons who ſhall ſuſtain any damage by the Surveyor's failing to comply with the directions aforeſaid, who will inform or ſue for the ſame, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth.

Surveyor may direct a deputy to ſurvey.

XXI. WHERE the chief Surveyor doth not mean to ſurvey himſelf, he ſhall immediately after the entry made, direct a deputy ſurveyor to perform the duty, who ſhall proceed as is before directed in the caſe of the chief Surveyor.

Chain carriers to be ſworn.

XXII. THE perſons employed to carry the chain on any ſurvey, ſhall be ſworn by the Surveyor, whether principal or deputy, to meaſure juſtly and exactly, to the beſt of their abilities, and to deliver a true account thereof to ſuch Surveyor, and ſhall be paid for their trouble by the party for whom the ſurvey is made.

Surveys to be cloſed, lines marked, and length and breadth proportioned. Exception.

XXIII. THE Surveyor, at the time of making the ſurvey, ſhall not leave any open lines, but ſhall ſee the ſame bounded plainly by marked trees, except where a water courſe, or ancient marked line ſhall be the boundary, and ſhall make the breadth of each ſurvey, at leaſt one third of its length in every part, unleſs where ſuch breadth ſhall be reſtrained on both ſides by mountains unfit for cultivation, by water courſes, or the bounds of lands before appropriated.

Plats & certificates when to be delivered.

XXIV. THE Surveyor ſhall, as ſoon as it can conveniently be done, and within three months at fartheſt after making the ſurvey, deliver to his employer, or his order, a fair and

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true plat and certificate of ſuch ſurvey, the quantity contained, the hundred (where hundreds are eſtabliſhed in the County) wherein it lies, the courſes and deſcriptions of the ſeveral boundaries, natural and artificial, ancient and new, expreſſing the proper names of ſuch natural boundaries, where they have any, and the name of every perſon whoſe former lines made a boundary, and alſo the nature of the warrant and rights on which ſuch ſurvey was made.

XXV. THE ſaid plats and certificates ſhall be examined and tried by the ſaid principal Surveyor, whether truly made and legally proportioned as to length and breadth, and ſhall be entered within three months at fartheſt, after the ſurvey is made, in a book well bound, to be provided by the Court of his County at the County charge; and he ſhall in the month of *July* every year, return to the Preſident and Profeſſors of *William* and *Mary* College, and alſo to the Clerk's-Office of his County Court, a true liſt of all ſurveys made by him or his deputies in the preceding twelve months, with the names of the perſons for whom they were reſpectively made, and the quantities contained in each, there to be recorded by ſuch Clerk; and no perſon ſhall hereafter hold the Offices of Clerk of a County Court and Surveyor of a County, nor ſhall a deputy in either Office, act as deputy or chief in the other.

To be examined and entered in the book of the principal ſurveyor. Liſts of ſurveys to be annually returned to the clerk of the county and to the college. No perſon to be clerk and ſurveyor of the ſame county.

XXVI. ANY Surveyor, whether principal or deputy, failing in any of the duties aforeſaid, ſhall be liable to be indicted in the Court of the Diſtrict in which he ſhall reſide, and puniſhed by amercement or deprivation of his Office, and incapacity to take it again, at the diſcretion of a jury; and ſhall moreover, be liable to any party injured, for all damages he may ſuſtain by ſuch failure.

How ſurveyors may be puniſhed for neglect.

XXVII. EVERY County Court ſhall once in every year, and oftener if they ſee cauſe, appoint two or more capable perſons to examine the books of entries and ſurveys in poſſeſſion of their chief Surveyor, and to report in what order and condition the ſame are kept; and on his death, or removal, ſhall have power to take the ſame into their poſſeſſion, and deliver them to the ſucceeding chief Surveyor.

Their offices to be annually inſpected.

XXVIII. IF any Surveyor, or other perſon who may be in poſſeſſion of any ſuch book of entries or ſurveys, ſhall refuſe or neglect to produce ſuch book to the perſons, who by any Court may be appointed to examine the ſame, or to deliver up the ſame agreeable to the order of ſuch Court to any chief Surveyor who has ſucceeded or may ſucceed any Surveyor, dead, or removed from Office, ſuch Surveyor, or other perſon, ſhall, for every ſuch refuſal, or neglect, forfeit and pay the ſum of thirty dollars; one half to the uſe of the County, and the other half to the uſe of the perſon ſuing for the ſame; to be recovered by action of debt, plaint, or information.

Penalty on ſurveyors refuſing to produce or deliver up their books when required by the court.

XXIX. AND for preventing haſty and ſurreptitious grants, and avoiding controverſies and expenſive law ſuits: *Be it enacted*, That no Surveyor ſhall, at any time within twelve months after the ſurvey made, iſſue or deliver any certificate, copy, or plat of land by him ſurveyed, except only to the perſon or perſons for whom the ſame was ſurveyed, or to his, her, or their order, unleſs a *caveat* ſhall have been entered againſt a grant to the perſon claiming under ſuch ſurvey, to be proved by an authentic certificate of ſuch *caveat*, from the Clerk of the Court, where ſuch *caveat* ſhall be entered, produced to the Surveyor; and if any Surveyor ſhall preſume to iſſue any certificate, copy, or plat as aforeſaid, to any other than the perſon or perſons entitled thereto, every Surveyor ſo offending, ſhall forfeit and pay to the party injured, his, or her legal repreſentatives, or aſſigns, one hundred dollars for every hundred acres of land contained in the ſurvey, whereof a certificate, copy, or plat ſhall be ſo iſſued, or ſhall be liable to the action of the party injured at the common Law, for his, or her damages, at the election of the party.

No plat to be delivered but to the owner within a year,

Unleſs a caveat be entered.

Penalty.

XXX. IT ſhall not be lawful for any Surveyor to admit an entry for any land, without a warrant from the Regiſter of the Land-Office, or on a certificate from a principal Surveyor, that ſuch warrant is filed in his Office, which certificate ſhall deſcribe the number thereof, the time when iſſued, to whom, and the aſſignments thereon, if any there be.

No entry to be made without a warrant from the regiſter, or a certificate from a ſurveyor.

XXXI. EVERY perſon for whom any waſte or unappropriated lands ſhall be ſo located and laid off, ſhall within twelve months at fartheſt after the ſurvey made, return the

Plats of ſurveys to be returned into the

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land-office within twelve months.

plat and certificate of the ſaid ſurvey into the Land-Office, and may demand of the Regiſter a receipt for the ſame; and on failing to make ſuch return within twelve months, as aforeſaid, or if the breadth of his plat be not one third of its length, as before directed, it ſhall be lawful for any other perſon to enter a *caveat* in the ſaid Land-Office againſt the iſſuing of any grant to him, expreſſing therein for what cauſe the grant ſhould not iſſue; or if any perſon ſhall obtain a ſurvey of lands to which another hath by Law a better right, the perſon having ſuch better right, may in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; ſuch *caveat* alſo expreſſing the nature of the right on which the plaintiff therein claims the ſaid land.

Caveats.

Proceedings thereon.

XXXII. THE perſon entering any *caveat*, ſhall take from the Regiſter of the Land-Office, a certified copy thereof, which within thirty days thereafter, he ſhall deliver to the Clerk of the Court of that Diſtrict or County in which the land lies; and ſhall moreover take from the Surveyor of the County, or from the Regiſter's Office, a certified copy of the ſurvey and plat, which within thirty days from the entering ſuch *caveat*, he ſhall in like manner deliver to the Clerk of the Court where the ſuit ſhall be inſtituted; and in caſe of failure in either inſtance, the *caveat* ſhall be void.

XXXIII. THE Clerk of ſuch Court, on receiving the ſame, ſhall enter ſuch copy of the *caveat* in a book to be kept by him for that purpoſe, and ſhall thereupon iſſue a ſummons, reciting the cauſe for which ſuch *caveat* is entered, and requiring the Defendant to appear on the firſt day of the next ſucceeding Diſtrict Court, or quarterly Seſſion, if the ſuit be inſtituted in a County Court, and defend his right; and on ſuch proceſs being returned executed, the Court ſhall proceed to determine the right of the cauſe in a ſummary way, without pleadings in writing, impannelling and ſwearing a Jury for the finding of ſuch facts as are material to the cauſe, and are not agreed by the parties, and ſhall thereupon give judgment; a copy of ſuch judgment, if in favor of the Defendant, being delivered into the Land-Office, ſhall vacate the ſaid *caveat*; and if not delivered within three months, a new *caveat* may for that cauſe be entered againſt the grant; and if the ſaid judgment be in favor of the Plaintiff, upon delivering the ſame into the Land-Office, together with a plat and certificate of the ſurvey, and alſo producing a legal certificate of new rights on his own account, he ſhall be entitled to a grant thereof; but on failing to make ſuch return, and produce ſuch certificates within ſix months after judgment ſo rendered, it ſhall be lawful for any other perſon to enter a *caveat* for that cauſe againſt iſſuing the grant; upon which ſubſequent *caveats*, ſuch proceedings ſhall be had as are before directed in the caſe of an original *caveat*; and in any *caveat*, where judgment ſhall be given for the Defendant, the Court ſhall award him his coſts, and may compel the Plaintiff, in any *caveat*, if they think fit, to give ſecurity for coſts, or on failure thereof, may diſmiſs the ſuit; and in caſe the Plaintiff in any ſuch *caveat* ſhall recover, the Court may, if they think it reaſonable, award coſts againſt the Defendant: *Provided*, that where any lands ſurveyed upon a land warrant as aforeſaid, ſhall in conſequence of any judgment upon a *caveat*, be granted to any other perſon than the party claiming under ſuch warrant, ſuch party ſhall be entitled to a new warrant from the Regiſter for the quantity of land ſo granted to another, reciting the original warrant and rights, and the particular cauſe of granting the new warrant.

Affidavit to be filed by the perſon entering a *caveat*.

XXXIV. *PROVIDED always*, That no *caveat* ſhall be entered, unleſs the perſon at the time of entering ſuch *caveat*, ſhall file with the Regiſter or his Deputy, an affidavit that ſuch *caveat* is really and *bona fide* made with an intention of procuring the lands for the perſon in whoſe name ſuch *caveat* is entered, and not in truſt for the benefit of the perſon againſt whom ſuch *caveat* is entered; and all *caveats* entered contrary to the directions of this Act, ſhall be abſolutely null and void.

Caveats to be diſmiſſed if the ſummons be not ſerved or not returned.

XXXV. AND wherever a ſummons upon a *caveat* ſhall either not be returned at all, or be returned not executed, the *caveat* upon which ſuch ſummons ſhall have iſſued, ſhall be diſmiſſed with coſts, unleſs the Court, before whom ſuch *caveat* ſhall be depending, ſhall be ſatisfied that the ſaid ſummons not having been executed, did not proceed from the neglect of the party who entered ſuch *caveat*.

XXXVI. AND whereas in ſome caſes plats and certificates of ſurvey have not been recorded in the Surveyor's office, nor returned to the Regiſter's office within the times

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reſpectively limited by law, and it is doubtful whether the lands held under ſuch ſurveys are not ſtill liable to be *caveated*; *Be it therefore enacted*, that where no *caveat* ſhall be entered before the ſaid duties reſpectively ſhall be performed, ſuch lands ſhall not thereafter be liable to forfeiture on account of ſuch failure.

Caveats not to be entered after the duties performed.

XXXVII. THE Clerks of the ſeveral Diſtrict and County Courts, within one month after the end of every Seſſion of the ſaid Courts, ſhall return to the Regiſter of the Land-Office, an atteſted liſt of all *caveats* that were diſmiſſed or determined at the ſaid preceding Court, which the Regiſter ſhall compare with the *caveat* book; and in all caſes where he ſhall find that the *cavcats* have been diſmiſſed, or determined in favor of the Defendant, he ſhall make out grants for ſuch lands, as if no ſuch *caveats* had been entered in his office.

Liſts of *caveats* diſmiſſed or determined to be ſent to the land-office.

XXXVIII. WHENSOEVER upon a *caveat*, the Court ſhall determine in favor of a *caveator*, all the fees he ſhall pay into the Regiſter's Office, in conſequence of ſuch determination, in order to obtain his patent, ſhall be by the Regiſter paid to the perſon who, in the firſt inſtance upon the return of the ſurvey, hath been compelled to pay the fees.

When a *caveat* is eſtabliſhed fees paid by the caveator, to be paid to the perſon returning the ſurvey.

XXXIX AND to prevent confuſion and miſtakes in the application, exchange or renewal of warrants, the Regiſter of the Land-Office is hereby directed and required, to leave a ſufficient margin in the record books of his Office, and whenever any warrant ſhall be exchanged, renewed, or finally carried into execution by a grant, to note the ſame in the margin oppoſite to ſuch warrant, with folio references to the grant, or other mode of application; and alſo to note in the margin oppoſite to each grant, the warrant or warrants, and ſurvey on which ſuch grant is founded, with proper folio references to the books in which the ſame are recorded.

Notes and references to be made by the regiſter in the margins of the record books containing the warrants and grants.

XL. ALL perſons, as well Foreigners as others, ſhall have right to aſſign or transfer warrants or certificates of ſurvey for lands; and any Foreigner purchaſing warrants for lands, may locate and have the ſame ſurveyed, and after returning a certificate of ſurvey to the Land-Office, ſhall be allowed the term of two years, either to become a Citizen, or to transfer his right in ſuch certificate of ſurvey, to ſome Citizen of this, or any other of the United States of *America*.

Warrants and certificates of ſurveys transferable. Foreigners may locate & ſurvey lands.

XLI. WHEN any grant ſhall have been finally completed, the Regiſter ſhall cauſe the plat and certificate of ſurvey on which ſuch grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpoſe at the public charge.

Plats of ſurveys on which grants may iſſue, to be recorded.

XLII. DUE returns of the ſeveral articles herein before required, being made into the Land-Office, the Regiſter, within not leſs than ſix, nor more than nine months, ſhall make out a grant by way of deed-poll, to the party having right, in the following form:

Form of the grant.

A. B. *Eſquire, Governor of the Commonwealth of* Virginia, *to all to whom theſe preſents ſhall come, greeting: Know ye, that in conſideration of military ſervice performed by* C. D. *to this Commonwealth, &c. (or in conſideration of military ſervice performed by* C. D. *to the United* American *States, or in conſideration of the ſum of* ____ *paid by* C. D. *into the Treaſury of this Commonwealth, &c.) there is granted by the ſaid Commonwealth unto the ſaid* C. D. *a certain tract or parcel of land containing* ____ *acres, lying in the County of* ____, *and hundred of* ____ *&c. (deſcribing the particular bounds of the land, and the date of the ſurvey upon which the grant iſſues) with its appurtenances; to have and to hold the ſaid tract or parcel of land, with its appurtenances, to the ſaid* C. D. *and his heirs, for ever. In witneſs whereof the ſaid* A. B. *Governor of the Commonwealth of* Virginia, *hath hereunto ſet his hand, and cauſed the ſeal of the ſaid Commonwealth to be affixed at* ____, *on the* ____ *day of* ____, *in the year of our Lord* ____; *and of the Commonwealth* ____. A. B.

XLIII. UPON which grant the ſaid Regiſter ſhall endorſe, that the party hath title to the ſame; whereupon it ſhall be ſigned by the Governor, ſealed with the ſeal of the Commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpoſe at the public expence, and kept by the Regiſter; and being ſo entered, ſhall be certified to have been regiſtered, and then be delivered to the party or his order.

To be ſigned, ſealed, and recorded.

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If made to heirs or assignees, material circumstances of the title to be recited.

XLIV. WHERE a grant ſhall be made to the heir or aſſignee of a perſon claiming under any of the before mentioned rights, the material circumſtances of the title ſhall be recited in ſuch grant.

Right of pre-emptions of infants, *femes covert*, &c. to ſwamps, &c. contiguous to their high lands.

XLV. THE Proprietor of any high lands, to which any ſwamps, marſhes or ſunken grounds are contiguous, if an infant, *feme covert*, beyond ſea, or under any other legal diſability, ſhall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after ſuch diſability ſhall be removed.

Method of obtaining grants for ſurplus lands within the bounds of patents.

XLVI. AND whereas, through the ignorance, negligence, or fraud of Surveyors, it may happen that divers perſons now do, or may hereafter hold within the bounds expreſſed in their patents or grants, greater quantities of land than are therein mentioned: For quieting ſuch poſſeſſions, preventing controverſies, and doing equal juſtice to the Commonwealth and its Citizens; *Be it enacted*, that it ſhall not be lawful for any perſon to enter for, ſurvey, or take up any parcel of land held as ſurplus in any patent or grant, except during the life-time of the patentee or grantee, and before any transference, conveyance, or other alienation ſhall have been made of the lands contained in ſuch patent or grant, and until the party intending to enter and take up the ſame, ſhall have given one full year's notice to ſuch patentee or grantee, of ſuch his intention; and in caſe ſuch patentee or grantee, ſhall not within the year, obtain rights and ſue forth a patent for the ſurplus land by him held, it ſhall be lawful for the perſon who gave notice as aforeſaid, upon producing a certificate from the Clerk of due proof of ſuch notice before the Court of the County wherein ſuch patentee or grantee reſides, and to demand from the Regiſter of the Land-Office, a warrant to the Surveyor of the County wherein ſuch lands lie, to re-ſurvey at the proper charge of the perſon obtaining ſuch warrant, the whole tract within the bounds of the patent or grant, and upon ſuch perſon's returning into the Land-Office a plat and certificate of ſuch re-ſurvey, together with the warrant on which it is founded, and obtaining and producing new rights for all the ſurplus land found within the ſaid bounds, he may ſue forth and obtain a new grant for ſuch ſurpus, which ſhall be granted to him in the ſame manner as waſte or unappropriated land; but the former patentee or grantee may aſſign ſuch ſurplus land in any part of his tract as he ſhall think fit, in one entire piece, the breadth of which ſhall be at leaſt one third of the length, and in ſuch new grant there ſhall be a recital of the original patent or grant, the re-ſurvey of which the ſurplus was aſcertained, and of other material circumſtances.

Proviſo for the relief of landholders unjuſtly vexed.

XLVII. *PROVIDED always*, That if upon notice given as aforeſaid, the original patentee or grantee ſhall, within the year, re-ſurvey his tract, and it be thereupon found that he hath no more than the quantity of land expreſſed in his patent or grant, with the allowance herein after mentioned, the party giving ſuch notice ſhall be liable to pay all charges of ſuch re-ſurvey, for which he ſhall give ſufficient ſecurity to the ſaid patentee or grantee, at the time of the notice, otherwiſe ſuch notice ſhall be void and of no effect; and moreover, for his unjuſt vexation, ſhall alſo be liable to an action upon the caſe, at the ſuit of the party grieved; and that in all ſuch new ſurveys, the patentee or grantee ſhall have an allowance, at the rate of five acres in every hundred, for the variation of inſtruments.

Method of rectifying miſtakes in bounds, and obtaining incluſive patents

XLVIII. WHERE any perſon ſhall find any miſtake or uncertainty in the courſes or deſcription of the bounds of his land, and deſires to rectify the ſame, or ſhall hold two or more tracts of land adjoining to each other, and is deſirous to include them in one grant, he may in either caſe, having previouſly advertiſed his intentions, and the time of application, at the door of the Courthouſe on two ſeveral Court days, and alſo having given notice to the owners of the adjoining lands, preſent a petition to the Court of the County in which the lands lie, reciting the nature and truth of the caſe, and ſuch Court may, and is hereby empowered to order the Surveyor of their County to re-ſurvey ſuch lands at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the poſſeſſions of any other perſon, and to return a fair plat and certificate of ſuch re-ſurvey into the ſaid Court, to be examined and compared with the title papers; and if ſuch Court ſhall certify that, in their opinion, ſuch re-ſurvey is juſt and reaſonable, the party may return the ſame, together with his material title papers into the Land-Office, and demand the Regiſter's receipt for them; and in caſe any *caveat* ſhall be entered againſt his obtaining a new grant upon ſuch re-ſurvey, the ſame proceedings ſhall be had therein, as is directed in the caſe of other *caveats*, and the Court

upon hearing the ſame, may either prohibit ſuch new grant, or vacate the *caveat*, as to them ſhall ſeem juſt; but if no *caveat* ſhall be entered within ſix months after ſuch return, or if a *caveat* ſhall be entered and vacated as aforeſaid, the party upon producing new rights for whatever ſurplus land appears to be within the bounds, more than the before-mentioned allawance of five acres for every hundred, may ſue out and obtain a new grant for ſuch lands thereupon, in which ſhall be recited the dates and other material circumſtances of the former title, and the title papers ſhall be delivered by the Regiſter to the new owner.

XLIX. THE Judges of the General Court ſhall once in every year, and oftener if they ſee cauſe, appoint two or more capable perſons, to examine the Record books and papers in the Land-Office, and report in what condition and order they are kept, who ſhall compare all warrants of ſurvey returned to the ſaid office executed, with the liſt of thoſe iſſued therefrom, and cancel all ſuch as ſhall appear to have been properly executed or exchanged, an account of which ſhall be kept by the Regiſter, charging therein thoſe iſſued, and giving credit for thoſe cancelled as aforeſaid; but no original warrant ſhall be burnt or otherwiſe deſtroyed, but ſhall be regularly filed in the Land-Office with the title papers.

The General court to cauſe the land-office to be examined once in every year or oftener, and certain warrants to be cancelled. All original warrants to be filed with the title papers.

L. NO original plat and certificate of ſurvey, once received and carried into grant, ſhall thereafter be delivered out of the Land-Office, but ſhall remain amongſt the other evidences of the title.

Plats on which ſurveys have iſſued to remain in the office.

LI. THE Regiſter of the Land-Office ſhall account for with the Auditor, and pay regularly into the Treaſury, at the end of every ſix months, all fees by him received from time to time, making oath that the fees ſo accounted for, are the whole profits accruing from the ſaid office, ſo far as he knows or believes, up to the date of ſuch account; and moreover his accounts of fees received, ſhall be fairly ſtated, and compared by the Auditor with the books of his office, before the account ſhall be paſſed. If the Regiſter of the Land-Office ſhall at any time fail to account, according to the directions of this Act, for the ſpace of ſix months, he ſhall forfeit and pay the ſum of ten thouſand dollars, to be recovered in the name of the Governor or Chief Magiſtrate for the time being, in any Court of Record, by the Auditor, on thirty days previous notice; and the *onus probandi* ſhall lie on the Defendant.

When and how the Regiſter ſhall account for the fees received.

LII. ON receiving each ſurvey into the Regiſter's office, the fees eſtabliſhed by Law, that will accrue on the ſame, including the iſſuing of the grant thereupon, ſhall be paid; and if the Regiſter ſhall credit any perſon, he ſhall account for the fees ſo credited in the ſame manner as if they had been received.

Fees to be paid on receipt of the plat into the office.

LIII. WHENSOEVER any County Court ſhall be ſo divided in the recommendation of a Surveyor, that neither of the Candidates ſhall be recommended, it ſhall be lawful for the High-Sheriff of ſuch County, and he is hereby required, to vote in favor of one of thoſe Candidates between whom the Court ſhall be divided.

High ſheriff to vote when the court is divided in the recommendation of a ſurveyor.

LIV. IT ſhall not be lawful for any County Surveyor, hereafter to withhold from any perſon entitled to demand the ſame, a plat by him demanded; and every Surveyor out of office, ſhall have the ſame remedy for fees due to him, as is hereby given to the acting Surveyors: *Provided*, that no Surveyor ſhall be obliged to deliver a plat of land to any perſon or perſons not reſident within the State, before the fees for the ſame ſhall be paid, or ſuch ſecurity given for the payment thereof, as to him ſhall be deemed ſufficient.

Surveyors not to withhold plats from the owners. Surveyors out of office, how they may recover their fees. When ſurveyors may withhold plats until the fees are paid or ſecured.

LV. THE Surveyor or Surveyors of any County or Counties from which a new County hath been taken, or hereafter ſhall be taken, ſhall, within one month after ſuch diviſion takes place, make out, and on application, deliver to the Surveyor of the new County, atteſted copies of all entries made upon lands within ſuch new County, on his books, and not ſurveyed, together with the warrants upon which they were founded; for which ſervice, he ſhall receive five cents for every ſuch atteſted copy, to be paid by the Surveyor of the new County, upon receipt of the ſaid atteſted copies. And, in caſe any Surveyor ſhall refuſe or neglect to make out, or deliver ſuch atteſted copies of entries within the time aforeſaid, or at the expiration of the ſaid time, upon the application of the Surveyor of the new County,

When a new county is formed, copies of entries for lands therein to be delivered to the ſurveyor thereof, by the ſurveyor of the former county.

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he ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered by action of debt or information, in any Court of record, by any perſon who will ſue for the ſame; any law to the contrary, notwithſtanding.

Bounds of lands to be proceſſioned every fourth year beginning in 1795.

LVI. THE Court of every County, at ſome Court between the firſt day of *June*, and the firſt day of *September*, which ſhall be in the year of our Lord, one thouſand ſeven hundred and ninety-five, and ſo between the firſt day of *June* and the firſt day of *September* in every fourth year thereafter, ſhall divide their Counties into ſo many precincts, as to them ſhall ſeem moſt convenient, for proceſſioning every perſon's land in their reſpective Counties, and ſhall appoint the particular times between the laſt day of *September* and the laſt day of *March*, then next coming, when ſuch proceſſioning ſhall be made in every precinct; and ſhall alſo appoint two or more intelligent, honeſt freeholders, of every precinct, to ſee ſuch proceſſioning performed, and to take and return to the ſaid Court, an account of every perſon's land they ſhall proceſſion, and of the perſons preſent at the ſame, and what lands in their precinct they ſhall fail to proceſſion, and the particular reaſons of ſuch failure; a copy of which order, ſhall be delivered by the Clerk of every Court, reſpectively, to the freeholders ſo appointed, within fifteen days after the making thereof; and the ſaid freeholders ſhall cauſe the ſame to be obeyed in every particular, and ſhall cauſe notice to be given at the moſt public places in their County, at leaſt three weeks before the ſame is to be performed, of the time appointed by them for proceſſioning, in each precinct; and the ſaid Court ſhall alſo cauſe the accounts returned by the freeholders, to be regiſtered in particular books to be kept for that purpoſe by their Clerk. Each proceſſioner ſhall be allowed by the Court of his County, fifty cents for every day he ſhall be employed in the buſineſs; and every County Court ſhall make a reaſonable allowance to the Clerk thereof, for the ſervices to be performed by him, by virtue of this Act; which ſeveral allowances ſhall be levied in their next County levy.

Proceſſioners.

Allowance to them.

Penalty for failure on the court; on the perſons appointed to proceſſion.

LVII. AND that no perſon may pretend ignorance, the Court are alſo to direct what precinct or precincts in their County, reſpectively, every particular freeholder thereof ſhall attend and perform the proceſſioning as aforeſaid. And if any County Court ſhall fail to make ſuch order as aforeſaid, every Juſtice of the Peace of ſuch County, ſhall forfeit and pay twenty-five dollars. And if any freeholder ſhall fail to obey and execute ſuch order, every freeholder failing, ſhall forfeit and pay fifteen dollars; and any County Court Clerk, failing to perform his duty as directed by this Act, ſhall forfeit and pay twenty-five dollars.

On the clerk of the court.

On any other perſon.

How appropriated and recoverable.

LVIII. AND if any other perſon not having lawful excuſe (to be judged of by the County Court) ſhall fail to perform his duty as is herein before required, every perſon ſo failing, ſhall forfeit and pay fifteen dollars; one moiety of which ſeveral forfeitures ſhall be to the uſe of the poor of the County, and the other half to the informer, and may be recovered in any Court of record within this Commonwealth, having juriſdiction thereof.

What ſhall be deemed a ſufficient excuſe.

LIX. *PROVIDED always*, That in any ſuit, information, or petition brought againſt a Magiſtrate of a County, or any other perſon, for any breach of this act, where the defendant ſhall give ſufficient evidence to the Court, where the ſuit or information ſhall be depending, that he was neceſſarily abſent, or that, being preſent, he offered to do his duty, purſuant to this Act, in ſuch caſe the ſuit or information as to ſuch defendant ſhall be diſmiſſed.

Bounds proceſſioned three times ſhall never be altered.

Former proceſſions confirmed.

LX. ALL and every proceſſioning the bounds of any perſons lands at three ſeveral times heretofore made according to the directions of the Laws then in force, or hereafter to be made purſuant to the directions of this Act, ſhall be held, and is hereby declared to be ſufficient to ſettle ſuch bounds, ſo as the ſame may never afterwards be altered; and every proceſſioning made in purſuance of, and conformably to the former Laws, ſhall be, and is hereby declared to be one of the three times of proceſſioning by this Act, held to be ſufficient.

How diſputed bounds ſhall be laid out where the parties refuſe to

LXI. WHEN any controverſy ſhall hereafter happen between perſons, whoſe lands lie contiguous, about their reſpective bounds, and the owner or owners of ſuch lands ſhall refuſe to ſuffer the ſame to be proceſſioned, in ſuch caſe, the freeholders appointed as aforeſaid, ſhall within ten days after ſuch refuſal, certify the ſame under their hands to the

Court of the County wherein ſuch lands ſhall lie at their next ſeſſion, and ſuch Court ſhall thereupon order their Surveyor with a Jury, to lay out the bounds in diſpute at the charge of the party againſt whom the right to ſuch bounds ſhall be determined, and to return ſuch ſurvey to the next Court, after the ſame ſhall be made, which return ſhall be recorded by the County Court Clerk. have their lands proceſſioned.

LXII. IF ſuch lands ſhall happen to lie in two or more Counties, then certificate as aforeſaid ſhall be returned to the Court of each County, and the Court of that County in which the beginning of ſuch controverted bounds ſhall lie, ſhall order their Surveyor, with a Jury of their County, to ſurvey the whole bounds in diſpute, and the Sheriff of each County wherein the ſame ſhall lie, to attend the Surveyor in their reſpective Counties; and ſuch ſurvey ſhall be made, returned, recorded, and regiſtered in the manner, and at the charge of the party againſt whom the right to ſuch bounds ſhall be determined. And all and every ſurvey and ſurveys, ſo as aforeſaid made and regiſtered, ſhall be held, deemed and taken to be a ſufficient proceſſioning of ſuch lands, to all intents and purpoſes, as if the ſame had been done by, and with the conſent of the owner thereof. Where the lands lie in two or more counties.

LXIII. *PROVIDED always*, That the proceſſioning and ſettlement of the bounds of land held by any Tenant for life only, ſhall not bar or conclude the heir in reverſion or remainder, but ſuch heir may at any time within ſix years after the death of ſuch Tenant, controvert the bounds as if no proceſſioning or ſettlement had been made. Heir in reverſion or remainder may within ſix years after the death of tenant for life, controvert the bounds.

LXIV. THE proceſſioning and ſettling the bounds of lands belonging to any perſon, then being within the age of one and twenty years, *feme covert*, *non compos mentis*, impriſoned, or not reſident within this Commonwealth, ſhall not be concluſive to ſuch perſon or perſons, until ſix years after their reſpective incapacities or diſabilities ſhall be removed or determined. Alſo perſons under legal diſabilities.

LXV. THE ſeveral penalties and forfeitures by this Act laid, given or inflicted, ſhall and may be recovered with coſts, by action of debt, information, or petition, in any Court of Record within this Commonwealth, wherein ſuch penalty or forfeiture ſhall be cognizable. Penalties how recoverable.

LXVI. ALL and every Act and Acts, clauſes and parts of Acts, within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided neverthele*ſ*s*, that all rights, remedies, fines, penalties and forfeitures, incurred or accruing under any former Act, ſhall remain in the ſame condition as if this Act had not been made. Repealing clauſe. Proviſo.

LXVII. THIS Act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

C H A P. LXXXVII.

An Act reducing into one, the ſ*everal Acts concerning forcible Entries and Detainers.*

[Paſſed the 3d of December, 1792.]

I. BE *it enacted by the General A*ſſ*embly*, That none ſhall make any entry into any lands and tenements, or other poſſeſſions whatſoever, but in caſe where entry is given by the Law; and in ſuch caſe not with ſtrong hand, nor with multitude of people, but only in a peaceable and eaſy manner, and that none who ſhall have entered into the ſame in a peaceable manner, ſhall hold the ſame afterwards with force; and if any ſhall do to the contrary, on complaint thereof to any Juſtice or Juſtices of the Peace, ſuch Juſtice or Juſtices ſhall take ſufficient power of the County, and go to the place where ſuch force is made; and all the people of the County, as well the Sheriff as others, ſhall be attendant upon the ſame Juſtices, to go and aſſiſt them to arreſt ſuch offenders, upon pain of impriſonment and amercement, at the diſcretion of a Jury. No lands or tenements to be entered or holden with force. Offenders to be arreſted.

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No warrant of forcible entry &c. to be granted but on oath.

II. BUT no warrant of forcible entry and detainer, or of forcible detainer, ſhall hereafter be granted, unleſs upon the oath or affirmation of the party praying the ſame.

Offenders to have notice of the time and place of taking the inquiſition.

III. THE name or names of the perſon or perſons ſo charged, ſhall be inſerted in every ſuch warrant; and the Sheriff or other Officer to whom the ſame ſhall be directed, ſhall give reaſonable notice, of at leaſt three days, to ſuch perſon or perſons, of the time and place of taking the inquiſition. And no Jury ſhall be ſworn to enquire of any forcible entry or detainer, where ſuch previous notice hath not been given.

Juſtices to enquire by jury of the force and to cauſe to be reſeized the lands ſo entered or holden.

IV. AND moreover, though ſuch perſons making ſuch entries be preſent, or elſe departed before the coming of ſuch Juſtice or Juſtices, notwithſtanding the ſaid Juſtice or Juſtices, in ſome convenient place, according to their diſcretion, ſhall have authority and power to enquire by the people of the ſame County, as well of them that make ſuch forcible entries in lands and tenements, as of them who hold the ſame with force; and if it be found before any of them, that any doth contrary to this Act, then the ſaid Juſtice or Juſtices ſhall cauſe to be re-ſeized, or to be re-poſſeſſed, the lands and tenements ſo entered or holden as afore, and ſhall put the party ſo put out, in full poſſeſſion thereof.

How the jury ſhall be ſummoned.

Penalty on the ſheriff for neglect.

V. AND alſo when the ſaid Juſtice or Juſtices make ſuch enquiries as before, he or they ſhall make their warrants and precepts, to be directed to the Sheriff of the ſame County, commanding him on behalf of the Commonwealth, to cauſe to come before him or them, fit perſons to enquire of ſuch entries: and if any Sheriff be ſlack, and make not execution duly of the ſaid precepts to him directed, to make ſuch enquiries, he ſhall forfeit eighty dollars, recoverable before any Court of Record, as well by indictment or information, to be taken only for the Commonwealth, as by bill at the ſuit of the party grieved, as well for himſelf as for the Commonwealth; in which caſe one moiety of the ſaid eighty dollars ſhall be to the Commonwealth, and the other moiety, together with his coſts and expences, ſhall be to the party ſuing.

Mayors, Aldermen, and Serjeants to have the ſame power as Juſtices and Sheriffs.

VI. AND moreover, Mayors, Aldermen, and Serjeants of Cities and Boroughs, ſhall have in the ſaid Cities and Boroughs, like power to remove ſuch entries, and in other articles aforeſaid ariſing within the ſame, as the Juſtices of Peace, and Sheriffs in Counties reſpectively have.

Reſtitution not to be made if the party indicted hath had three years poſſeſſion; to be ſtayed until that be tried. Party indicted to pay coſts & damages if it be found againſt him.

VII. BUT no reſtitution upon any indictment of forcible entry, or holding with force, ſhall be made to any, if the party indicted hath had the occupation, or hath been in quiet poſſeſſion by the ſpace of three whole years together, next before the day of ſuch indictment ſo found, and his eſtate therein be not ended or determined; which the party indicted may alledge for ſtay of reſtitution, and reſtitution ſhall ſtay until that be tried, if the other will deny or traverſe the ſame; and if the ſame allegation be tried againſt the party ſo indicted, then the ſame party ſo indicted, ſhall pay ſuch coſts and damages to the other party, as ſhall be aſſeſſed by the Judges or Juſtices before whom the ſame ſhall be tried.

Tenants for years or by eligit to have the remedy as tenants of freehold eſtates.

VIII. TENANTS for terms of years, and Tenants by *elegit* of lands, or tenements by them ſo holden, which ſhall be entered upon by force, or holden from them by force, ſhall have the ſame remedy as Tenants of any eſtate of freehold or of inheritance.

Repealing clauſe.

IX. ALL and every Act, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

X. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. LXXXVIII.

An Act to prevent unlawful Hunting and Ranging.

[Paſſed the 4th of December, 1792.]

Penalty for hunting, fiſhing or fowling within the lands or tenements of another.

I. BE *it enacted*, That if any perſon or perſons, ſhall at any time ſhoot, hunt, or range upon the lands or tenements, or fiſh, or fowl in any creeks or waters included within the bounds of any other perſon or perſons, without licenſe firſt obtained of the owner of ſuch lands, every ſuch offender ſhall forfeit and pay three dollars for every

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such offence, to be recovered with costs, before any Justice of the Peace of the County where the offence shall be committed, by the Informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender: but in that case the penalty shall be paid to the Overseer of the poor of the District wherein the offender resides, to the use of the poor of such District; and moreover every such offender shall be liable to the action of the party grieved, at the common Law, for his or her damages.

The offender also liable to action at the common law.

II. IF any person shall be the third time convicted of any such offence as aforesaid, the Justice of Peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the Governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common Jail, there to remain until he give such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the Overseers of the poor, for the use of the poor of the District wherein such conviction shall be.

Upon a third conviction the offender besides paying the penalty, shall be bound to his good behaviour or committed. Conviction of such offence after security given, shall be a breach of the good behaviour.

III. ALL and every Act or Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXIX.

An Act to reduce into one, the several Acts for the better securing the payment of Rents, and preventing the fraudulent Practices of Tenants; and to Regulate the Practice of suing out and prosecuting Writs of Replevin.

[Passed the 29th of November, 1792.]

I. BE *it enacted by the General Assembly*, That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract whatsoever, and the Tenant or Owner of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the Sheriff or Officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same, at the end of three months; in such case, such Sheriff or Officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made.

The method of proceeding in distresses for rent.

II. ALL and every bond and bonds, so taken in pursuance of this Act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor, (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful, and full power and authority, is hereby given to the Justices of the Court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution, the Sheriff or Officer shall not take any su-

Tenor of the bonds to be taken in pursuance of this act.

Mode of proceeding for the recovery of the money due thereon.

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reties for payment of the money or tobacco at a further day, but ſhall levy the ſame immediately. And for the better direction of ſuch Sheriff or Officer, the Clerk ſhall endorſe upon the back of every ſuch execution, that "no ſecurity is to be taken."

Where the diſtreſs is made for tobacco between the 30th of *September* and the 31ſt of *December*.

III. *PROVIDED always*, That when diſtreſs ſhall be made for tobacco, between the laſt day of *September* and the laſt day of *December* in any year, and the goods diſtrained ſhall not be replevied as aforeſaid, ſuch goods ſhall be ſold, and ſecurity taken for paying the tobacco by the firſt day of *January* then next enſuing; and the bonds taken for the ſame, and coſts of ſeizure and ſale, ſhall be by the Officer delivered to the landlord for whom diſtreſs was made; which laſt mentioned bonds ſhall have the like force, and may be proceeded upon in the ſame manner, as any other bond directed to be taken by this Act.

Remedy in caſe of wrongful diſtreſs.

IV. IN caſe any diſtreſs and ſale ſhall be made, under colour of this Act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the perſon or perſons diſtraining, or to him, her, or them in whoſe name or names, or right, ſuch diſtreſs ſhall be taken as aforeſaid, then the owner of the goods and chattels ſo diſtrained and ſold, his executors or adminiſtrators, ſhall have remedy, by action of treſpaſs, or upon the caſe, againſt the perſon and perſons ſo wrongfully diſtraining, or either of them, his, her, or their executors and adminiſtrators, and ſhall recover double the value of the goods and chattels ſo diſtrained and ſold, together with full coſts of ſuit.

Treble damages upon poun breach or reſcous.

V. UPON any pound breach, or reſcous, of goods or chattels, diſtrained for rent, the perſon or perſons grieved thereby, ſhall, in a ſpecial action upon the caſe, for the wrong thereby ſuſtained, recover treble damages, with coſts of ſuit, againſt the offender and offenders, in any ſuch reſcous or pound breach, or either of them, or againſt the owner of the goods diſtrained, in caſe the ſame be afterwards found to have come to his or her uſe or poſſeſſion.

Goods upon leaſehold lands not to be taken in execution until the rent in arrear be paid.

VI. NO goods or chattels whatſoever, lying or being in or upon any meſſuage, lands, or tenements, which are or ſhall be leaſed for life or lives, term of years, at will, or otherwiſe, ſhall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatſoever, unleſs the party ſo taking the ſame, ſhall, before removal of the goods from off ſuch premiſes, pay or tender to the landlord or leſſor thereof, or his agent, all the money or tobacco due for the rent of the ſaid premiſes, at the time of taking ſuch goods or chattels in execution.

Proviſo.

VII. *PROVIDED nevertheleſs*, That ſuch rent arrear do not amount to more than one year's rent; and if more be due, then the party ſuing out ſuch execution, paying or tendering to ſuch landlord, or his agent, one year's rent, may proceed to execute his judgment: And the Sheriff or Officer ſerving the ſame, is hereby empowered and required, to levy and pay to the Plaintiff, as well the money or tobacco ſo paid for rent, as the execution money.

Where the landlord ſuſpects his tenant will remove, he may have an attachment.

VIII. WHERE any landlord ſhall have ſufficient grounds to ſuſpect that his Tenant will remove with his effects out of the County or Corporation, before the expiration of his term, ſo as no diſtreſs for the ſaid rent can be made, it ſhall be lawful for ſuch landlord to go before any Juſtice of the Peace of the County or Corporation, where the lands leaſed do lie, and make oath what rent the Tenant is to pay, and at what time the ſame will be due, and that he has juſt cauſe to ſuſpect, and verily believes ſuch Tenant will remove his or her effects out of the County or Corporation before time of payment; and thereupon ſuch Juſtice may, and he is hereby empowered and required, to iſſue an attachment againſt the goods and chattels of ſuch Tenant, returnable to his next County or Corporation Court; and if ſuch Tenant ſhall not, at the time of ſerving ſuch attachment, or before, or at ſuch next Court, enter into recognizance, with one or more ſufficient ſecurities, for the payment of the ſaid rent at the time it ſhall become due, it ſhall be lawful for ſuch Court, and they are hereby required to order the goods attached to be ſold by the Sheriff or Serjeant at public auction, for money or tobacco according to the reſervation of the rent, to be paid at the time the rent ſhall become due, the purchaſers giving good ſecurity for ſuch payment, and to aſſign the bonds taken for the ſame, and the coſts to ſuch landlord; and the overplus of ſuch ſale, if any, beſides the charges of attachment and ſale, to return to the owner.

IX. IN case any lessee for life or lives, term of years, at will, or otherwise, of messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall at any time fraudulently or clandestinely convey or carry off or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall be lawful for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within ten days next after such conveying away or carrying off such goods and chattels, to take and seize the same wherever they shall be found, as a distress for the arrears of such rent, and the same to sell in like manner as if they actually had been distrained by such lessor or landlord in and upon the demised premises. Goods carried off the premises may be seized within ten days thereafter.

X. *PROVIDED always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent. But not if sold before seizure.

XI. ANY person or persons having rent in arrear, or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years. Rent arrear upon lease for life recoverable by action of debt.

XII. IT shall be lawful for any person or persons having rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined. How rent arrear may be distrained for after determination of the lease.

XIII. *PROVIDED*, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the Tenant from whom such arrears became due. And no distress for rent shall be made in any case whatsoever, but within five years after such rent shall have become due and in arrear. Proviso.

XIV. *PROVIDED also*, That nothing in this Act contained, shall extend or be construed to let, hinder, or prejudice the Commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures due, payable or answerable to the Commonwealth; but that the same may be levied, recovered and seized, in the same manner as if this Act had never been made. Saving debts due to the commonwealth.

XV. AND whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, *Be it enacted*, that before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ shall enter into bond, with one or more sufficient securities, in the Clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the Court in such suit, in case he, she, or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the Clerk shall in like manner endorse, that "no security is to be taken." No writ of replevin to be issued until bond and security be given. Rent being found due the party delayed to recover double the value.

XVI. WHERE any person shall suggest that the goods distrained, are his or her property, and not the property of the Tenant, nor held in trust for the use of the Tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid. Person other than the tenant may sue out writ of replevin, and if cast shall pay double the rent.

XVII. AND for the more speedy determination of all such writs of replevin:

XVIII. *BE it further enacted*, That every such writ shall be returnable to the next Court after the same shall be issued, and such Court shall at their next sitting after the re- Suits in replevin to be speedily tried.

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turn, cause an issue to be made up therein, which shall be tried at the following Court, without waiting for its turn in the order of priority in regard to other suits.

Grantees of lands, or the reversions, to have the same right of entry for non-payment of rent, &c. as the original lessors

XIX. ALL persons being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof, from any person or persons, and the heirs, executors, and administrators and assigns of such grantees or assignees, shall and may have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeitures, and also shall and may have and enjoy all and every such like covenants and agreements, contained and expressed in the indentures of their said leases, demises or grants, against all the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs ought, should, or might have had, or enjoy at any time or times.

Lessees of lands to have the same actions and advantages of covenants, &c. against the grantees of reversions as against the original lessors.

XX. ALL lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators or assigns, shall and may have like action, advantage against all and every person and persons, their heirs and assigns, which have or shall have any gift or grant of the reversion of the said lands, tenements, or hereditaments, so letten, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their lease and leases, as the same lessees or any of them, might and should have had against the said lessors and their heirs: all benefit and advantage of recoveries in value by reason of any warranty in deed or in Law, only excepted.

Executors and Administrators may maintain debt against a tenant or his executors for rent due to their testator, or may distrain during the tenants seizin or possession.

XXI. THE executors and administrators of any person unto whom any rent is or shall be due, and not paid at the time of his death, shall and may have an action of debt for all such arrearages against the Tenant or Tenants, that ought to have paid the said rent so being behind in the life of their Testator, or against the executors or administrators of such Tenants; and also furthermore, it shall and may be lawful for every such executor and administrator of any such person, to whom such rent is or shall be due and not paid at the time of his death, to distrain for the arrearages of all such rents, on the lands, tenements, and other hereditaments, which were charged with the payment of such rents, and chargeable to the distress of the said testator, or intestate, so long as the same continue, remain, and be in the seizin or possession of the said Tenant in demesne, who ought immediately to have paid the said rent, so being behind to the said testator or intestate in his life time, or in the seizin or possession of any person or persons claiming the said lands, tenements, and hereditaments, only by and from the said Tenant by purchase, gift, or descent, in like manner and form as their said testator might or ought to have done in his life time; and the said executors and administrators for the same distress, lawfully may make avowry upon the matter aforesaid.

Husband having a fee simple or estate for life in right of his wife may after her death maintain debt, or distrain for rent accruing during her life.

XXII. IF any man which now hath or hereafter shall have in the right of his wife any estate in fee simple, or for term of life, of, or in any rents or fee farms, and the same rents or fee farms now be or hereafter shall be due, behind and unpaid in the said wife's life, then the said husband after the death of his said wife, his executors and administrators, shall have an action of debt for the said arrearages, against the Tenant of the demesne, that ought to have paid the same, his executors or administrators, and also the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form as he might have done, if his said wife had been then living, and make avowry upon his matter as is aforesaid.

Executors and Administrators may maintain debt or distrain for rent due to their testators altho' the tenants estate be determined.

XXIII. THE executors and administrators of any person or persons having rent in arrear or due upon any demise or lease, for life or lives, or for years, or at will, although the same be determined, shall and may have the like remedy by action of debt, or by distress, against the person who ought to have paid the same, his or her executors or administrators, as the testator if living, might or could have had.

Good distrained not to be removed out of the county.

XXIV. IT shall not be lawful for any person taking any distress to drive or remove the same out of the County where such distress was taken: And whosoever doth so, shall be amerced at the discretion of a Jury; moreover distresses shall be reasonable and not too great, and he that taketh great and unreasonable distresses, shall be amerced for the excess of such distresses.

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XXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. Repealing clause.

XXVI. *PROVIDED*, That all rights and remedies given by every such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made. Proviso.

XXVII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. XC.

An Act for regulating Conveyances.

[Passed the 13th of December, 1792.]

I. BE *it enacted by the General Assembly*, That no estate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, shall be conveyed from one to another, unless the conveyance be declared by writing, sealed, and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the General Court, or the Court of that District, County, City, or Corporation in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the Clerk of such Court to be there recorded.

No estate of freehold in lands or tenements to pass but by deed.

How when & where such deeds must be acknowledged or proved, & recorded.

II. NO covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses, to be his, her, or their act, if land be charged, before the General Court, or the Court of that District or County in which the land or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled, before the Court of that District, County, City, or Corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the Clerk of such Court, to be there recorded.

How when & where covenants and agreements in consideration of marriage must be acknowledged, or proved and recorded.

III. WHEN any such deed or conveyance shall be acknowledged or proved in Court, in order to their being recorded, the livery of seizin thereupon made, in such cases where the same is by Law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made.

Livery of seizen to be recorded with the deed.

IV. ALL bargains, sales, and other conveyances, whatsoever of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold, or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this Act; but the same as between the parties and their heirs, shall nevertheless be valid and binding.

All conveyances, settlements, trusts, & mortgages of lands and chattels, void as to creditors & subsequent purchasers if not recorded. But binding between the parties.

V. IF the party who shall sign and seal any such writing, reside not in *Virginia*, or in the District or County where the lands conveyed lie, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any Court of Law, or the Mayor or other Chief Magistrate of any City, Town, or Corporation of the County in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them, and offered to the proper Court to be recorded within eighteen months after the sealing and delivering, where the party resides out of this Commonwealth, and within eight months after the sealing and delivery where the party resides within this Commonwealth, shall be as effectual as if it had been in the last mentioned Court.

How deeds may be acknowledged or proved where the grantor resides out of the state, or the district or county wherein the lands lie.

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Deed by husband & wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States.

VI. WHEN husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in Court, and being examined privily and apart from her husband, by one of the Judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said Court acknowledge the said writing, again shewn to her, to be her act, or if before two Justices of the Peace of that County in which she dwelleth, if her dwelling be in the United States of *America*, who may be empowered by commission, to be issued by the Clerk of the Court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment, the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her by them, and consenteth that it may be recorded, and the said commissioners shall return with the commission, and thereunto annexed a certificate under their hands and seals of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded together with such her privy examination and acknowledgment before the Court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman.

To whom the commission must be directed if she resides out of the United States.

VII. IF the dwelling of the wife be not in the United States of *America*, the commission to examine her privily and take her acknowledgment, shall be directed to any two Judges or Justices of any Court of Law, or to the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two Justices in the United States of *America*; and the certificate of the Judges or Justices of such Court, or the certificate of such Mayor or Chief Magistrate authenticated in the form, and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the Justices in the United States of *America*. And whereas it has always been adjudged, that when a deed has been acknowledged by a *feme covert*, and no record made of her privy examination, such deed is not binding on the *feme* or her heirs, it is therefore declared, that the Law herein shall always be held according to the said judgments; and the Clerks of the Courts before whom any deed of a *feme covert* shall be acknowledged, shall always hereafter record her privy examination.

Privy examinations of *femes covert* void if not recorded.

In what manner writings acknowledged or proved in courts shall be recorded.

VIII. THE Clerk of every Court shall record all writings acknowledged or proved before such Court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings, and plats, schedules and other papers thereto annexed, by entering them word for word in well bound books, to be carefully preserved, and afterwards re-deliver them to the parties entitled to them, and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames, and additions of the parties thereto in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the Clerk of every District or County Court, shall transmit such docket made by him to the Clerk of the General Court, on or before the first of *October* annually, to be recorded by him.

Memorials of such writings recorded in the district & county courts, to be recorded in the general court.

Persons having estates tail, to stand seized in fee-simple.

IX. EVERY estate in lands or slaves, which on the seventh day of *October*, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue an estate in fee-simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the Law aforetime was, such estate would have been an estate tail, shall also be deemed to have been, and to continue an estate in fee-simple. And all estates which before the said seventh day of *October*, one thousand seven hundred and seventy-six, by the Law, if it remained unaltered, would have been estates in fee-tail, and which now by virtue of this Act, are, and will be estates in fee-simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common Law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had and shall have the same power over the same estates, as if they were pure and absolute fees.

X. *PROVIDED always*, That all estates in lands or slaves which have become, or shall hereafter become escheatable to the Commonwealth, by virtue of the Act, intituled, "*An act declaring tenants of lands or slaves in tail, to hold the same in fee-simple*," or of this Act, for defect of blood, shall descend, and be deemed to have descended agreeable to the limitations of the deed or will creating such estates. Proviso respecting such estates as have or may become escheatable for defect of blood.

XI. *PROVIDED also*, That nothing in this Act contained, shall be construed to restrain any Tenant of such lands or slaves, from selling or conveying the same by deed in his or her lifetime, or disposing thereof by his or her last will and testament, and that all such estates shall remain liable to the debts of the Tenants in the same manner as lands and slaves held in fee-simple: *Provided moreover*, that this Act shall not extend to any lands or slaves which have been escheated and sold for the use of the Commonwealth Such estates may be disposed of by will or deed, and shall be subject to debts in the same manner as estates in fee-simple.

XII. EVERY estate in lands which shall hereafter be granted, conveyed, or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee-simple, if a less estate be not limited by express words, or do not appear to have been granted, conveyed, or devised by construction or operation of Law. Every estate conveyed or devised to be deemed a fee-simple unless a less estate be limited.

XIII. WHERE an estate hath been, or shall be by any conveyance limited in remainder to the son or daughter, of or to the use of the son or daughter of any person, to be begotten, such son or daughter born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been conveyed to support the contingent remainder after his death. When a contingent remainder shall be good, although there be no intermediate estate.

XIV. BY deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to use, or deed operating by way of covenant to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath, or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use had been enfeoffed, with livery of seizin of the land intended to be conveyed by such deed or covenant. By what conveyances the possession of the grantor shall be transferred to the grantee without livery of seizen.

XV. ESTATES of every kind holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use, or for whose benefit they were, or shall be, respectively holden or possessed, as they would have been subject to, if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof. Trust estates subject to debts and charges as if the person held the like interest in the thing holden, as in the use thereof.

XVI. WHERE any person to whose use, or in trust for whose benefit another is or shall be seized of lands, tenements, or hereditaments, hath or shall have such inheritance in the use or trust, as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy or dower of such lands, tenements, or hereditaments. Trust estates subject to dower and curtesy.

XVII. GRANTS of rents, or of reversions, or remainders, shall be good and effectual without attornments of the Tenants, but no Tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby. Grants of rents, reversions, &c. good without attornments.

XVIII. THE attornment of a Tenant to any stranger shall be void, unless it be with consent of the Landlord of such Tenant, or pursuant to, or in consequence of the judgment of a Court of Law, or the order or decree of a Court of Equity. When attornment to a stranger shall be void.

XIX. ALL conveyances by commissioners and Sheriffs hereafter to be made for lands sold in virtue of any decree or judgment of any Court within this Commonwealth, shall be, and they are hereby declared to be good and effectual, for passing the absolute title of such lands to the purchasers thereof, and all persons claiming under them, any Law to the contrary notwithstanding; saving to the Commonwealth, and to all and every person and persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees or judgments, and those claiming under them, all such Conveyances by commissioners and sheriffs under decrees & judgments of courts effectual for passing the title.

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right, title, interest and demand, as they, every or any of them, would have had in case this Act had not been made.

Repealing clause.

XX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained shall be construed to affect any right which may have accrued, or been vested before the commencement of this Act.

Commencement of this act.

XXI. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCI.

An Act reducing into one, the several Acts concerning the Manner of authenticating Foreign Deeds, Records, and other Instruments in Writing.

[Passed the 8th of December, 1792.]

Preamble.

I. WHEREAS the intercourse between this State and the other States in the Union, and between this State and Foreign Nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any Foreign Kingdom, State, Nation, or Colony, beyond sea, and out of the jurisdiction of this State:

How foreign deeds and other instruments of writing must be authenticated to be admitted as evidence.

II. *BE it enacted by the General Assembly*, That all such deeds if acknowledged by the party making the same, or proved by the number of witnesses requisite before any Court of Law, or the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of birth and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the Laws of such State, Kingdom, Nation, Province, Island or Colony, and attested by a Notary Public, with a testimonial from the proper Officer of the City, County, Corporation, or Borough, where such Notary Public shall reside, or the great Seal of such State, Kingdom, Province, Island, Colony, or Place beyond sea, shall be evidence in all the Courts of Record within this Commonwealth, as if the same had been proved in the said Courts.

Repealing clause. Proviso.

III. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed in any manner to alter the method of taking and certifying the privy examination of any *feme covert*, or in any other respect to alter or repeal the Act, intituled, "*An Act for regulating Conveyances.*"

Commencement of this act.

IV. THIS Act shall commence in force, from the passing thereof.

CHAP. XCII.

An Act reducing into one, the several Acts concerning Wills, the Distribution of Intestates Estates, and the Duty of Executors and Administrators.

[Passed the 13th of December, 1792.]

Who may dispose of their lands and tenements by will.

I. BE *it enacted by the General Assembly*, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest in possession, reversion or remainder, which he hath, or at the time of

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his death ſhall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or iſſuing out of them, ſo as ſuch laſt will and teſtament be ſigned by the teſtator, or by ſome other perſon in his preſence, and by his direction; and moreover, if not wholly written by himſelf, be atteſted by two or more credible witneſſes, ſubſcribing their names in his preſence.

Deviſes of lands or tenements muſt be in writing. How to be atteſted.

II. SAVING to the widows of teſtators their dower in ſuch lands, tenements, rents, or annuities, according to the Laws, which ſhall not be prejudiced by any deviſe thereof.

Saving to widows their dower.

III. NO deviſe ſo made, or any clauſe thereof, ſhall be revocable but by the Teſtator's deſtroying, cancelling, or obliterating the ſame, or cauſing it to be done in his preſence, or by a ſubſequent will, codicil, or declaration in writing made as aforeſaid. But every laſt will and teſtament, made when the Teſtator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife enſeint of a child, which ſhall be born, ſhall have no effect during the life of ſuch after born child, and ſhall be void, unleſs the child die without having been married, or before he or ſhe ſhall have attained the age of twenty-one years. When a Teſtator ſhall leave children born, and his wife enſeint, the poſthumous child or children, if it be unprovided for by ſettlement, and be neither provided for nor diſinherited, but only pretermitted by the laſt will and teſtament, ſhall ſucceed to the ſame portion of the father's eſtate, as ſuch child would have been entitled to, if the father had died inteſtate; towards raiſing which portion, the deviſees and legatees ſhall contribute proportionably, out of the parts deviſed and bequeathed to them by the ſame will and teſtament.

How ſuch deviſes may be revoked. A will made when the teſtator had no children not to affect thoſe born afterwards. A poſthumous child prætermitted in his father's will, to have the ſame portion of his eſtate as if he had died inteſtate.

IV. NO perſon under the age of eighteen years, ſhall be capable of diſpoſing of his chattels by will.

No perſon under the age of 18 to diſpoſe of his chattels by will.

V. NO nuncupative will ſhall be eſtabliſhed, unleſs it be made in the time of the laſt ſickneſs of the deceaſed at his habitation, or where he hath reſided for ten days next preceding, except where the deceaſed is taken ſick from home, and dies before he returns to ſuch habitation; nor where the value exceeds thirty dollars, unleſs it be proved by two witneſſes, that the Teſtator called on ſome perſon preſent to take notice or bear teſtimony that ſuch is his will, or words of the like import.

Rules concerning nuncupative wills

VI. AFTER ſix months have elapſed from the time of ſpeaking the pretended teſtamentary words, no teſtimony ſhall be received to prove a nuncupative will, unleſs the teſtimony, or the ſubſtance thereof, ſhall have been committed to writing within ſix days after making the will.

Where they ſhall not be of force.

VII. NO will in writing, or any deviſe therein of chattels, ſhall be revoked by a ſubſequent will, codicil, or declaration, unleſs the ſame be in writing.

How deviſes of chattels may be revoked.

VIII. ANY ſoldier in actual military ſervice, or any mariner or ſeaman being at ſea, may diſpoſe of his chattels as he might heretofore have done.

Soldiers and ſeamen may diſpoſe of their chattels as heretofore.

IX. IF any perſon ſhall ſubſcribe his name as a witneſs to a will wherein any bequeſt is given to him, if the will may be not otherwiſe proved, the bequeſt ſhall be void, and ſuch witneſs ſhall be allowed and compellable to appear, and give teſtimony on the reſidue of the will, in like manner as if no ſuch bequeſt had been made. But if ſuch witneſs would be entitled to any ſhare of the Teſtator's eſtate in caſe the will were not eſtabliſhed, ſo much of his ſaid ſhares ſhall be ſaved to him, as ſhall not exceed the value of the legacy bequeathed him.

Where bequeſts to the witneſſes ſhall be void.

X. THE ſeveral Diſtrict, County, or Corporation Courts, ſhall have power to hear and determine all cauſes, matters, ſuits and controverſies teſtamentary, ariſing within their reſpective juriſdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to ſay: If any Teſtator ſhall have a manſion-houſe, or known place of reſidence, his will ſhall be proved in the Court of the Diſtrict, County, or Corporation, wherein ſuch manſion-houſe, or place of reſidence is; if he have no ſuch place of reſidence, and lands be deviſed in the will, it ſhall be proved in the Court of the Diſtrict, County, or Corporation, wherein the lands lie, or

Diſtrict and county courts may take proof of wills, and grant adminiſtrations.

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in one of them where there ſhall be lands in ſeveral Diſtricts or Counties; and if he hath no ſuch known place of reſidence, and there be no lands deviſed, then the will may be proved, either in the Court of the Diſtrict, County, or Corporation where the Teſtator ſhall die, or that wherein his eſtate, or the greater part thereof, ſhall be; or ſuch will may in any caſe, be proved in the General Court.

Probat to be received when the will is exhibited. But the validity thereof may be conteſted by any intereſted within ſeven years thereafter.

XI. WHEN any will ſhall be exhibited to be proved, the Court having juriſdiction as aforeſaid, may proceed immediately to receive the probat thereof, and grant a certificate of ſuch probat: If however, any perſon intereſted, ſhall within ſeven years afterwards appear, and by his bill in Chancery conteſt the validity of the will, an iſſue ſhall be made up, whether the writing produced be the will of the Teſtator or not, which ſhall be tried by a Jury, whoſe verdict ſhall be final between the parties, ſaving to the Court a power of granting a new trial for good cauſe, as in other trials; but no ſuch party appearing within that time, the probat ſhall be forever binding: Saving alſo to infants, *femes covert*, and perſons abſent from the ſtate, or *non compos mentis*, the like period after the removal of their reſpective diſabilities.

XII. IN all ſuch trials by Jury, the certificate of the oath of the witneſſes at the time of the firſt probat, ſhall be admitted as evidence, to have ſuch weight as the Jury ſhall think it deſerves.

How wills may be proved by witneſſes reſiding out of the commonwealth.

XIII. IT ſhall be lawful for any Court when any will ſhall be produced to them for probat, and any witneſs atteſting the ſame ſhall reſide out of the Commonwealth, to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding Judge of any Court of Law, or to any Notary Public, Mayor, or other Chief Magiſtrate of any City, Town, Corporation, or County, where ſuch witneſs may be found, authoriſing the taking and certifying his atteſtation. If the perſon to whom any ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him, that the witneſs perſonally appeared before him and made oath, or ſolemn affirmation, (as the caſe may require) that the Teſtator ſigned and publiſhed the writing annexed to ſuch commiſſion as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction, that he was of diſpoſing mind and memory, and that he ſubſcribed his name thereto in the preſence of the Teſtator, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the Court from whence ſuch commiſſion iſſued.

Copies of wills proved in other ſtates or countries, may be proved and recorded in the courts of this commonwealth.

The validity thereof may be conteſted as the originals might have been.

XIV. AUTHENTICATED copies of wills proved according to the Laws of any of the United States, or of Countries without the limits of the ſame, and relative to any eſtate within this Commonwealth, may be offered for probat in the General Court; or where the eſtate ſo deviſed ſhall lie altogether in any one County or Diſtrict, the Court of ſuch County or Diſtrict reſpectively may admit to record any ſuch authenticated copies, but the bond and oath of the executor or adminiſtrator, with the will annexed, ſhall be changed from the bond and oath required by Law in other caſes, in ſuch manner as to the ſaid Court ſhall ſeem neceſſary, and the proof to be made by the witneſſes ſhall be conformed to the nature of the caſe. But ſuch will ſhall be liable to be conteſted and controverted in the ſame manner as the original might have been.

The executors named therein intitled to probat. And adminiſtration granted where there are none, or they refuſe to qualify.

XV. ALL perſons named as executors in any ſuch will, ſhall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the ſaid will, in the ſame manner as if the original will had been proved in ſuch Court. And where there ſhall be no executors named in the ſaid will, or the executors therein named, ſhall all of them refuſe the executorſhip, the Court ſhall have the ſame power and authority to hear and determine the right of adminiſtration, and to grant a certificate for obtaining letters of adminiſtration, with the will annexed, as if the original will had been proved in Court.

When nuncupative wills may be proved.

XVI. NO nuncupative will ſhall be proved within fourteen days after the death of the Teſtator, nor until his widow (if any) and next of kin, have been ſummoned to conteſt the ſame, if they pleaſe.

Any perſon poſſeſſed of another's will may be compelled to produce it.

XVII. IF the General Court, or any Diſtrict, County, or Corporation Court, having juriſdiction as aforeſaid, ſhall be informed that any perſon hath the will of a Teſtator in his cuſtody, ſuch Court may ſummon ſuch perſon, and by a proper proceſs, compel him to produce the ſame.

XVIII. IF the executors named in any will ſhall all refuſe the executorſhip, or being required to give ſecurity as herein after mentioned, ſhall refuſe or fail to give the ſame, which ſhall amount to a refuſal of the executorſhip, in either caſe, the Court having juriſdiction as aforeſaid, may receive the proof of the will, and grant a certificate for obtaining letters of adminiſtration with the ſame annexed, to the perſon to whom adminiſtration would have been granted, if there had been no will of the deceaſed. Where executors refuſe, adminiſtration with the will annexed ſhall be granted.

XIX. BEFORE granting a certificate of the probat of any will, the executor or adminiſtrator, with the will annexed, (as the caſe may be) ſhall in open Court take the following oath, to wit: Executors & adminiſtrators ſhall be ſworn.

YOU ſhall ſwear that this writing contains the true laſt will of the within named , as far as you know or believe; and that you will well and truly perform the ſame by paying firſt his debts, and then the legacies contained in the ſaid will, as far as his goods, chattels and credits will extend, and the Law charge you; and that you will make a true and perfect inventory of all the ſaid goods, chattels and credits, as alſo a juſt account when thereto required. Oath of an executor or adminiſtrator with the will annexed.

And ſhall alſo give bond, in ſuch penalty, as will be equal to the full value of the eſtate at the leaſt, and with ſuch ſecurity as ſhall be approved of by the Court, with the following condition, to wit:

THE condition of this obligation is, that if the ſaid , executor of the laſt will and teſtament, (or adminiſtrator with the will annexed, of all the goods, chattels and credits) of , deceaſed, do make a true and perfect inventory of all and ſingular, the goods, chattels and credits of the ſaid deceaſed, which have, or ſhall come to the hands, poſſeſſion, or knowledge of , the ſaid , or into the hands or poſſeſſion of any other perſon or perſons for , and the ſame ſo made, do exhibit into the Court of , at ſuch time as ſhall be thereto required by the ſaid Court, and the ſame goods, chattels, and credits, do well and truly adminiſter according to Law, and make a juſt and true account of actings and doings therein, when thereunto required by the ſaid Court; and further, do well and truly pay and deliver all the legacies contained and ſpecified in the ſaid will, as far as the ſaid goods, chattels, and credits will extend, according to the value thereof, and as the Law ſhall charge , then this obligation to be void, or elſe to remain in full force. Bond.

XX. WHICH bond ſhall be payable to the Judges or Juſtices ſitting in Court, and their ſucceſſors, and ſhall not become void upon the firſt recovery, but may be put in ſuit and proſecuted from time to time, by and at the coſts of any party injured by a breach thereof, until the whole penalty be recovered thereupon. The whole penalty recoverable thereon.

XXI. BUT where any Teſtator ſhall leave viſible eſtate, more than ſufficient to pay all his debts, and by will ſhall direct that his executors ſhall not be obliged to give ſecurity, in that caſe no ſecurity ſhall be required, unleſs the Court ſhall ſee cauſe from their own knowledge, or the ſuggeſtions of creditors or legatees, to ſuſpect the executors of fraud, or that the Teſtator's perſonal eſtate will not be ſufficient to diſcharge all his debts, and ſhall require ſecurity, when the ſame ſhall be given, before a certificate ſhall be granted, notwithſtanding any directions to the contrary in the Teſtator's will. When executors ſhall not be obliged to give ſecurity.

XXII. THE power of executors over their Teſtator's eſtates before probat of the will, is not hereby reſtrained, but ſhall continue as heretofore. Their power before probat.

XXIII. DURING any conteſt about a will, or during the infancy, or in the abſence of an executor, or until a will which may have once exiſted, but is deſtroyed, ſhall be eſtabliſhed, or whenever the Court from any other cauſe ſhall judge it convenient, they may appoint any perſon or perſons to collect and preſerve the eſtate of any decedent, until a probat of his will, or *durante minore ætate*, or until adminiſtration of his eſtate be granted, taking bond and ſecurity for collecting the eſtate, making an inventory thereof, and ſafe keeping and delivering up the ſame when required, to the executors or adminiſtrators. In what caſes the court ſhall appoint a perſon to collect and preſerve a decedent's eſtate.

XXIV. THE bond and oath of the adminiſtrator or appointee in ſuch caſes, ſhall be changed from the bond and oath of an adminiſtrator in ordinary caſes, in ſuch manner as to the ſaid Courts, or any of them ſhall ſeem neceſſary.

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Widow not ſatisfied with the proviſion made for her by her huſband's will, may renounce her legacy and demand her dower of the ſlaves and her proportion of the perſonal eſtate.

XXV. WHEN any widow ſhall not be ſatisfied with the proviſion made for her by the will of her huſband, ſhe may within one year from the time of his death, before the General Court, or Court having juriſdiction of the probat of his will as aforeſaid, or by deed executed in the preſence of two or more credible witneſſes, declare that ſhe will not take or accept the proviſion made for her by ſuch will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will; and thereupon ſuch widow ſhall be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, which ſhe ſhall hold during her life, and at her death they and their increaſe, ſhall go to ſuch perſon or perſons, to whom they would have paſſed and gone, if ſuch declaration had not been made; and ſhe ſhall moreover be entitled to ſuch ſhare of his other perſonal eſtate, as if he had died inteſtate, to hold to her as her abſolute property; but every widow not making a declaration within the time aforeſaid, ſhall have no more of her huſband's ſlaves and perſonal eſtate, than is given her by his will.

Original wills to be recorded and remain in the clerks office.

XXVI. ALL original wills ſhall be recorded, and ſhall alſo remain in the Clerk's office of the Court wherein they are reſpectively proved, except during ſuch time as they may be in any Superior Court, having been removed thither for inſpection by *certiorari*, or otherwiſe, after which they ſhall be returned to the ſaid Office.

Inteſtates eſtates, how to be diſtributed amongſt their repreſentatives.

XXVII. WHEN any perſon ſhall die inteſtate as to his goods and chattels, or any part thereof, after funeral debts and juſt expences paid, if there be no child, one moiety, or, if there be a child or children, one third of the ſurplus ſhall go to the wife, but ſhe ſhall have no more than the uſe for her life of ſuch ſlaves as ſhall be in her ſhare, and the reſidue of the ſurplus, and after the wife's death, the ſlaves in her ſhare, or, if there be no wife, then the whole of ſuch ſurplus ſhall be diſtributed in the ſame proportions, and to the ſame perſons, as lands are directed to deſcend in and by an Act of the General Aſſembly, intituled, "*An Act to reduce into one, the ſeveral Acts directing the courſe of deſcents.*" Nothing in this Act contained, ſhall be underſtood ſo as to compel the huſband to make diſtribution of the perſonal eſtate of his wife dying inteſtate. Where any children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his lifetime, any perſonal eſtate by way of advancement, and ſhall chooſe to come into the diſtribution with the other perſons entitled, ſuch advancement ſhall be brought into hotchpot with the diſtributable ſurplus.

Rules in granting adminiſtration of inteſtates eſtates.

XXVIII. THE General Court, and the ſeveral courts reſpectively, ſhall have the like juriſdiction to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, as is herein before mentioned, as to the proof of wills, in reſpect to the inteſtate's place of reſidence, or death, or where the eſtate ſhall lie, and ſhall grant certificates for obtaining ſuch adminiſtration, to the repreſentatives who apply for the ſame; preferring firſt the huſband or wife, and then ſuch others as are next entitled to diſtribution, or one, or more of them, as the Court ſhall judge will beſt manage and improve the eſtate.

XXIX. IF no ſuch perſon applies for adminiſtration within thirty days from the death of an inteſtate, or at the next ſucceeding Court after the expiration thereof, the Court may grant adminiſtration to any creditor or creditors who apply for the ſame, or to any other perſon the Court ſhall, in their diſcretion, think fit.

Wills may be proved after adminiſtration granted.

XXX. BUT if any will ſhall afterwards be produced, and proved by Executors, or the wife, or other diſtributee, who ſhall not have before refuſed, ſhall apply for the admininiſtration, the ſame ſhall be granted, in like manner as if the former had not been obtained.

Diſtributee may obtain adminiſtration altho' it may have been previouſly granted to a creditor or other perſon.

Adminiſtrators oath.

XXXI. BEFORE granting a certificate for the adminiſtration of any eſtate, the perſon or perſons to whom the ſame is granted, ſhall, in open Court, take the following oath, to wit:

"*YOU ſhall ſwear that , deceaſed, died without any will, as far as you know or believe, and that you will well and truly adminiſter all and ſingular the goods, chattels, and credits of the ſaid deceaſed, and pay his debts, as far as his goods, chattels, and credits will extend, and the Law require you; and that you make a true and perfect Inventory of all the ſaid goods, chattels, and credits, as alſo a juſt account when thereunto required.*" So help you GOD.

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XXXII. AND shall also give bond, in a penalty at least equal to the value of the estate, and with such security as shall be approved by the Court, with the following condition, to wit:

Bond.

THE condition of this obligation is, That if the said , administrator of the goods, chattels, and credits of , deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits, of the said deceased, which have, or shall come to the hands, possession, or knowledge of , the said , or in the hands or possession of any other person or persons, for , and the same so made, do exhibit into the Court, , when he shall be thereto required by the said Court; and such goods, chattels and credits, do well and truly administer, according to Law; and further do make a just and true account of his actings and doings therein, when thereto required by the said Court; and all the rest of the said goods, chattels and credits, which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the Justices of the said Court for the time being, shall deliver and pay unto such persons, respectively, as are entitled to the same by Law; and if it shall hereafter appear, that any last will and testament was made by the deceased, and the same be proved in Court, and the executor obtain a certificate of the probat thereof, and the said do in such case, being required, render and deliver up his letters of administration, then this obligation to be void, else to remain in full force."

Which bond shall be payable to the sitting Justices, and their successors, and may be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators, with the will annexed.

XXXIII. BUT no security for any executor or administrator, shall be chargeable beyond the assets of the Testator or Intestate, by reason of any omission or mistake in pleading, or false pleading of such executors or administrator.

Securities how far chargeable in case of false pleading by executors or administrators.

XXXIV. IF any Court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security, when taken, and not from subsequent accidents or discoveries thereof, the Justices of such Court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or, by the taking insufficient security, recoverable with costs, by action on the case, in any Court of Record.

Where good security shall not be taken, the justices liable.

XXXV. WHEN securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the Court for relief, the Court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter-security, or otherwise, as to them shall seem just and equitable.

How securities may be indemnified.

XXXVI. ALL certificates of probat or administration, attested by the Clerk, shall enable the executor or administrator to act, and may be produced, or given in evidence in any Court within this Commonwealth, and be as effectual as any probat or letters of administration made out in due form: *Nevertheless*, the Clerks of the Courts shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first Justice of the Court; which probat or letters shall be signed by such Justice, and sealed with the District, County, or Corporation seal, if the will be proved in a District, County, or Corporation Court, or with the seal of the Commonwealth, if proved in the General Court.

Certificates of probat or administration attested by clerks of courts as effectual as a probat or letters of administration in form.

Clerks when required to make them out in due form.

XXXVII. THE Clerk of every District, County, or Corporation Court, shall annually, on or before the first day of *October*, return to the Clerk of the General Court, a list of all certificates granted in his Court for probats and administrations within the preceding year, in this form [date of certificate] [name of Testator or Intestate] [names of securities] [penalty of bond.] Which lists together with such certificates as are granted in the General Court, shall be entered by the Clerk of the General Court, alphabetically, in books to be kept for that purpose.

Lists of probats and administrations in the general, district, and county courts to be recorded in the general court.

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Appraiſers to be appointed.

XXXVIII. EVERY Court granting a certificate for a probat or adminiſtration, ſhall nominate three or more appraiſers in every County or Corporation, where any of the perſonal eſtate of the decedent ſhall be, who, being ſworn before a Juſtice of the Peace for that purpoſe, ſhall truly and juſtly, to the beſt of their judgment, view and appraiſe all the perſonal eſtate to them produced, and ſhall return ſuch appraiſement under their hands to the Court ordering the ſame; which appraiſement, if ſigned by the executor or adminiſtrator, may be conſidered as an inventory of ſuch part of the eſtate, as had heretofore come to his hands.

Inventories & appraiſements how far evidence for or againſt executors & adminiſtrators.

XXXIX. INVENTORIES and appraiſements may be given in evidence in any ſuit by or againſt the executor or adminiſtrator, but ſhall not be concluſive for or againſt him, if other teſtimony be given that the eſtate was really worth, or was, *bona fide*, ſold for more or leſs than the appraiſement.

Allowance to appraiſers.

XL. EACH appraiſer ſhall be entitled to fifty cents per day, for his attendance, to be paid by the executor or adminiſtrator, and charged to the eſtate.

Duty of executors and adminiſtrators in ſelling periſhable goods, ſpecific legacies excepted.

XLI. EXECUTORS and adminiſtrators, whether it be neceſſary for payment of debts, or not, ſhall, as ſoon as convenient after they are qualified, ſell at public ſale, all ſuch goods of their Teſtator or Inteſtate, ſpecific legacies excepted, as are liable to periſh, be conſumed, or rendered worſe by keeping, giving ſuch credit as they ſhall judge beſt, and the circumſtances of the eſtate will admit of, taking bond and good ſecurity of the purchaſers, and ſhall account for ſuch goods according to the ſales: If more be ſold than will pay the debts and expences, the executor or adminiſtrator may aſſign the bonds for the ſurplus, to thoſe entitled to the eſtate, and be diſcharged as to ſo much; and if after ſuch aſſignment, the obligor become inſolvent ſo as the money be loſt, without the fault or neglect of the aſſignee, then ſuch loſs ſhall be made good to the aſſignee, out of the decedent's eſtate.

In ſelling the other perſonal eſtate.

XLII. IF ſuch periſhable goods be not ſufficient for paying the debts and expences, the executor or adminiſtrator ſhall proceed in the next place, to ſell the other perſonal eſtate, until the debts and expences be all paid, having regard to the privilege of ſpecific legacies.

Where no appraiſement ſhall be neceſſary. Where the eſtate ſhall not be ſold.

XLIII. NEVERTHELESS, if the Teſtator direct his eſtate not to be appraiſed, it ſhall be ſufficient to return an inventory thereof only; and if he direct his eſtate not to be ſold, the ſame ſhall be preſerved in ſpecie, unleſs a ſale be neceſſary for the payment of debts.

Dead victuals and liquors to remain for the uſe of the family.

XLIV. THE dead victuals and liquors, which at the death of any Teſtator or Inteſtate, ſhall have been laid in for conſumption in his family, ſhall not be ſold by the executor or adminiſtrator, but ſhall remain for the uſe of ſuch family, without account thereof to be made: If, however, before its final conſumption, any child ſhall leave the family, ſuch child ſhall have a right to carry with him or her, an equal ſhare of what ſhall then be on hand. Any live ſtock which may be neceſſary for the food of the family, may alſo be killed for that uſe, at any time before the ſale, diviſion or diſtribution of the eſtate.

Sale and conveyance of lands deviſed to be ſold, by whom to be made.

XLV. THE ſale and conveyance of lands deviſed to be ſold, ſhall be made by the executors, or ſuch of them as ſhall undertake the execution of the will, if no other perſon be thereby appointed for that purpoſe, or if the perſon ſo appointed ſhall refuſe to perform the truſt, or die before he ſhall have completed it. But if none of the executors named in ſuch will ſhall qualify, or after they have qualified, ſhall die before the ſale and conveyance of ſuch lands, then in thoſe caſes, the ſale and conveyance thereof, ſhall be made by ſuch perſon or perſons to whom adminiſtration of the Teſtator's eſtate, with the will annexed, ſhall be granted.

Rules concerning ſervants, ſlaves, & crops.

XLVI. IF any perſon ſhall die after the firſt day of *March*, the ſervants and ſlaves of which he was poſſeſſed, whether held for life or for other intereſt, and which were employed in making a crop, ſhall be continued on the plantations in the occupation of the decedent, until the laſt day of *December* following, and then delivered to thoſe who ſhall have a right to demand the ſame; and their crops ſhall be aſſets in the hands of the executors

and adminiſtrators, ſubject to debts, legacies and diſtribution; the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well cloathed, being firſt deducted. And if ſuch ſlaves or ſervants be held by the Teſtator or Inteſtate for his or her life only, in that caſe the executor or adminiſtrator ſhall be obliged to deliver, to thoſe who are entitled in remainder or reverſion, three barrels of *Indian* corn for every ſuch ſervant or ſlave, old and young, to be allowed in their accounts of adminiſtration.

XLVII. IF a Teſtator or Inteſtate ſhall die after the firſt day of *March*, all the emblements of his lands which ſhall be ſevered before the thirty-firſt day of *December* following, ſhall in like manner be aſſets in the hands of the executor or adminiſtrator, but all ſuch emblements growing on the lands on that day, or at the time of the death of the Teſtator or Inteſtate, if that event happen after the thirty-firſt day of *December*, and before the firſt day of *March*, ſhall paſs with the land to the heir, deviſee, reverſioner, or remainder man.

XLVIII. IF there be Tenant for life of lands or ſlaves let or hired to another, at the death of ſuch Tenant for life, if that event happen after the firſt day of *March*, the leſſee or perſon hiring, ſhall hold the lands and ſlaves until the laſt day of *December* following, paying rent or hire to that time, and in the caſe of ſlaves, delivering them well cloathed.

Where tenant for life, of lands or ſlaves let or hired to another, dies after 1ſt *March*.

XLIX. THE rent of land or hire of ſlaves ſhall be apportioned between the executor or adminiſtrator of him, who having a freehold, or other uncertain eſtate in the land, and the uſe for life, or for other uncertain term in the ſlaves, ſhall die before the rent or hire become due, and him who ſhall ſucceed to the lands and ſlaves, as heir, deviſee, or perſon in reverſion or remainder, unleſs in the caſe of a deviſee, the contrary be directed by the Teſtator.

To whom the rent ſhall be paid, where tenant for life of lands or ſlaves dies before it becomes due.

L. THE appointment of a debtor executor ſhall in no caſe be deemed an extinguiſhment of the debt, unleſs it be ſo directed in the will.

Debt not extinguiſhed by appointing a debtor executor.

LI. NO diſtribution ſhall be made of an Inteſtate's eſtate until nine months after his death, nor ſhall an adminiſtrator be compelled to make diſtribution at any time, until bond and ſecurity be given by the perſon entitled to diſtribution, to refund due proportions of any debts or demands, which may afterwards appear againſt the Inteſtate, and the coſts attending the recovery of ſuch debts.

When diſtribution of inteſtates eſtates is to be made.

LII. EXECUTORS and adminiſtrators ſhall be allowed in their accounts all reaſonable charges and diſburſements which they ſhall lay out and expend in the funeral of the deceaſed, and other their adminiſtration, and may be allowed ſuch recompence for their perſonal trouble, as the Court on paſſing their accounts, ſhall judge reaſonable.

Executors and adminiſtrators to be allowed all juſt expences.
And a reaſonable recompence for their trouble.

LIII. THE executors or adminiſtrators of a guardian, of a committee, or of any other perſon, who ſhall have been chargeable with, or accountable for the eſtate of a ward, an ideot, or a lunatic, or the eſtate of a dead perſon, committed to their Teſtator or Inteſtate by a Court of Record, ſhall pay ſo much as ſhall be due from the Teſtator or Inteſtate, to the ward, ideot, or lunatic, or to the legatees, or perſons entitled to diſtribution, before any proper debt of their Teſtator or Inteſtate.

Executors or adminiſtrators of guardians, committees, or of executors or adminiſtrators, to pay debts due from their teſtators to wards, ideots, legatees, &c. before any other debts.

LIV. WHERE any perſon ſhall die ſeized of lands held for life of another, ſuch perſon may, by his or her laſt will and teſtament in writing, made and proved, as is herein before directed for the deviſe of lands, deviſe all his intereſt in ſuch lands, which ſhall, if neceſſary, be aſſets in the hands of ſuch deviſee. And if no ſuch deviſe be made, ſuch lands for the reſidue of the term ſhall be aſſets in the hands of the heir, if it ſhall come to him by reaſon of a ſpecial occupancy, in the ſame manner as lands deſcending in fee-ſimple; and if there be no ſpecial occupant, it ſhall go to the executors or adminiſtrators of the perſon ſo dying ſeized, and be aſſets in their hands, ſubject to debts, legacies, and diſtribution.

Tenant of lands held for the life of another, may deviſe his intereſt therein.
How it ſhall be diſpoſed of where there is no ſuch deviſe.

LV. EXECUTORS or adminiſtrators may ſue, or be ſued upon all judgments, bonds, or other ſpecialties, bills, notes, or other writings of their Teſtators or Inteſtates, whether

In what caſes executors or

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administrators may be sued.

the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts.

In suits against executors or administrators on open accounts, courts to expunge all items due five years before the death of the testator. Penalty for post-dating such accounts.

LVI. IF any suit shall be brought against any executor or administrator for the recovery of a debt due upon an open account, it shall be the duty of the Court before whom such suit shall be brought, to cause to be expunged from such account, every item thereof which shall appear to have been due five years before the death of the Testator or Intestate. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may be plaintiffs in such suits, three years after their several disabilities removed; and if any person shall wilfully post-date any such account, he shall forfeit and pay ten fold the amount of the articles so post-dated; to be recovered by action of debt in any Court of Record, where the penalty incurred shall exceed twenty dollars, and by petition where the penalty incurred shall be under that sum.

Within what time actions of debt must be brought, and writs of *scire facias* issued against executors or administrators on judgments against their testators or intestates.

LVII. NO action of debt shall be brought against any executor or administrator upon a judgment obtained against his Testator or Intestate, nor shall any *scire facias* be issued against any executor or administrator to revive such judgment after the expiration of five years from the qualification of his executor or administrator, and all such judgments after the expiration of five years, upon which no proceedings shall have been had, shall be deemed to have been paid and discharged. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may have been entitled to the benefit of any such judgment, three years after their several disabilities removed.

Executors or administrators may maintain trespass for goods taken from their testators or intestates.

LVIII. ACTIONS of trespass may be maintained by or against executors or administrators, for any goods taken or carried away in the lifetime of the Testator or Intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets.

Duty of executors of executors as to the will of the first testator.

LIX. EXECUTORS of executors shall do and perform all things in the execution of the will of the first Testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued, in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued.

Executors or administrators of executors or administrators, chargeable for waste done by their testators or intestates.

LX. THE executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his Testator or Intestate might have been.

How the estates of deceased persons are to be disposed of when the executors refuse to qualify, and no person applies for administration.

LXI. IF all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give or be unable to procure the same, and no person will apply for administration with the will annexed: Or, if no person will apply for administration of the goods and chattels of any Intestate, it shall be lawful for the General Court, or other Court having jurisdiction of such probat or administration, as herein before mentioned, after the expiration of three months from the death of the Testator or Intestate, to order the Sheriff or other Officer of the County or Corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the Sheriff or his deputies, or other Officer, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the Testator or Intestate in his lifetime. The estate shall be sold upon such credit as the Court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The Sheriff or other Officer may sue, if necessary, for recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the Court by whom he was ordered to sell, without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; but if there be sufficient, they may order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this Act. Whereupon the Sheriff, or Deputy, or other Officer, shall assign the bonds and deliver the estate remaining unsold, to the

creditors or others according to ſuch order, retaining nevertheleſs his commiſſions, which ſhall be the ſame upon the eſtate by him ſold, as is allowed for goods taken in execution; and where the whole eſtate is not ſold, he ſhall moreover be allowed his reaſonable expences and diſburſements in the care of the part unſold.

LXII. ALL ſales and conveyances of lands heretofore *bona fide* made by a Sheriff or other Officer, under any order of Court where the lands had been deviſed to be ſold, and the executor had refuſed to act, are hereby confirmed and made effectual againſt all perſons claiming under the Teſtator. Former ſales and conveyances by ſheriffs of lands deviſed to be ſold, where the executor refuſed to act, confirmed.

LXIII. ALL and every Act, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, that nothing in this Act contained, ſhall be conſtrued to affect any right which may have accrued or been veſted before the commencement of this Act. Repealing clauſe. Proviſo.

LXIV. THIS Act ſhall commence in force, from and after the paſſing thereof. Commencement of this act.

CHAP. XCIII.

An Act to reduce into one, the ſeveral Acts directing the Courſe of Deſcents.

[Paſſed the 8th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That henceforth when any perſon having title to any real eſtate of inheritance, ſhall die inteſtate as to ſuch eſtate, it ſhall deſcend and paſs in parcenary to his kindred, male and female, in the following courſe; that is to ſay: Real eſtate of inheritance of perſons dying inteſtate, to deſcend in parcenary to their kindred.

II. TO his children or their deſcendants, if any there be: Courſe of deſcents.

III. IF there be no children, nor their deſcendants, then to his father:

IV. IF there be no father, then to his mother, brothers and ſiſters, and their deſcendants, or ſuch of them as there be.

V. *PROVIDED*, *nevertheleſs*, That where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the father, neither the mother of ſuch infant nor any iſſue which ſhe may have by any perſon, other than the father of ſuch infant, ſhall ſucceed to, or enjoy the ſame, or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the father, or any brother or ſiſter of the father, or any lineal deſcendant of either of them. Saving however, to ſuch mother any right of dower which ſhe may claim in the ſaid real eſtate of inheritance.

VI. *AND provided alſo*, That where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the mother, neither the father of ſuch infant, nor any iſſue which he may have by any perſon other than the mother of ſuch infant, ſhall ſucceed to, or enjoy the ſame or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the mother, or any brother or ſiſter of the mother, or any lineal deſcendant of either of them. Saving however, to ſuch father the right which he may have as tenant by the curteſy in the ſaid eſtate of inheritance.

VII. IF there be no mother, nor brother, nor ſiſter, nor their deſcendants, and the eſtate ſhall not have been derived either by purchaſe or deſcent, from either the father or the mother, then the inheritance ſhall be divided into two moieties, one of which ſhall go to the paternal, the other to the maternal kindred, in the following courſe; that is to ſay:

VIII. FIRST, to the grand-father.

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IX. IF there be no grand-father, then to the grand-mother, uncles, and aunts on the ſame ſide, and their deſcendants, or ſuch of them as there be:

X. IF there be no grand-mother, uncle nor aunt, nor their deſcendants, then to the great grand-fathers, or great grand-father, if there be but one:

XI. IF there be no great grand-father, then to the great grand-mothers, or great grand-mother, if there be but one, and the brothers and ſiſters of the grand-fathers and grand-mothers, and their deſcendants, or ſuch of them as there be:

XII. AND ſo on in other caſes without end; paſſing to the neareſt lineal male anceſtors, and for the want of them to the lineal female anceſtors in the ſame degree, and the deſcendants of ſuch male and female anceſtors, or to ſuch of them as there be.

None except the children of the inteſtate to take, unleſs in being at the inteſtate's death.

XIII. BUT no right in the inheritance ſhall accrue to any perſons whatever, other than to children of the inteſtate, unleſs they be in being, and capable in law to take as heirs, at the time of the inteſtate's death.

Rule where the inheritance is to go by moieties to the paternal and maternal kindred.

XIV. AND where, for want of iſſue of the inteſtate, and of father, mother, brothers and ſiſters, and their deſcendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there ſhould be no ſuch kindred on the one part, the whole ſhall go to the other part: And if there be no kindred either on the one part or the other, the whole ſhall go to the wife or huſband of the inteſtate. And if the wife or huſband be dead, it ſhall go to her or his kindred in the like courſe, as if ſuch wife or huſband had ſurvived the inteſtate, and then died entitled to the eſtate.

Where ſome are of the whole and others of the half blood.

XV. AND in the caſes beforementioned, where the inheritance is directed to paſs to the aſcending and collateral kindred of the inteſtate, if part of ſuch collaterals be of the whole blood to the inteſtate, and other part of the half blood only, thoſe of the half blood, ſhall inherit only half ſo much as thoſe of the whole blood: But if all be of the half blood, they ſhall have whole portions, only giving to the aſcendants (if any there be) double portions.

Where they ſhall take *per capita*.

XVI. AND where the children of the inteſtate, or his mother, brothers and ſiſters, or his grand-mother, uncles and aunts, or any of his female lineal anceſtors living, with the children of his deceaſed lineal anceſtors, male and female in the ſame degree, come into the partition, they ſhall take *per capita*, that is to ſay, by perſons; and where a part of them being dead, and a part living, the iſſue of thoſe dead have right to partition, ſuch iſſue ſhall take *per ſtirpes*, or by ſtocks, that is to ſay, the ſhare of their deceaſed parent.

Where *per ſtirpes*.

Children receiving real eſtate in advancement, may bring it into hotchpot and come into partition.

XVII. AND where any of the children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his life-time, any real eſtate by way of advancement, and ſhall chooſe to come into partition with the other parceners, ſuch advancement ſhall be brought into hotchpot with the eſtate deſcended.

Alienage of an anceſtor no bar in title by deſcent.

Baſtards capable of inheriting and tranſmitting inheritance on the part of the mother.

XVIII. IN making title by deſcent, it ſhall be no bar to a party that any anceſtor through whom he derives his deſcent from the inteſtate, is, or hath been an alien. Baſtards alſo ſhall be capable of inheriting or of tranſmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of ſuch mother.

When baſtards ſhall be legitimated.

Iſſue in marriages null in law, legitimate.

XIX. WHERE a man having by a woman one or more children, ſhall afterwards intermarry with ſuch woman, ſuch child or children, if recognized by him, ſhall be thereby legitimated. The iſſue alſo in marriages deemed null in Law, ſhall nevertheleſs be legitimate.

When lands of perſons dying inteſtate, may be ſold.

XX. WHENSOEVER any lands ſhall deſcend from a perſon dying inteſtate to two or more heirs, any one of whom ſhall be an infant, *feme covert*, *non compos mentis*, or beyond ſea, and the dividend of each heir ſhall not exceed the value of one hundred dollars, in the opinion of any Court herein after mentioned, it ſhall be lawful for the High Court of Chancery, or the Court of the County or Corporation in which ſuch lands, or the greater quantity of them lie, to direct the ſale of the ſaid lands, and the diſtribution of the money

arising therefrom, according to the rights of each claimant: *Provided always*, that each heir residing within this Commonwealth, shall be first duly summoned, to shew cause if any he can against such sale: And where any heir shall reside without this Commonwealth, the Court shall make an order for publication, which order being inserted in the *Virginia* Gazette for eight weeks successively, shall be considered as a summons.

XXI. ONE parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division or matter to be made or done, concerning lands which shall have descended to them. One parcener may maintain waste against another. Rights of parceners equal in elections, divisions, &c.

XXII. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall be construed in any wise to affect any right, title, interest or claim to, or in any estate in lands or tenements whatsoever, accrued before the commencement of this Act, but the same shall be, and remain in the same condition, as if this Act had never been made. Repealing clause. Proviso.

XXIII. THIS Act shall commence in force, from and after the passing thereof. Commencement of this act.

C H A P. XCIV.

An Act to reduce into one, all Acts and Parts of Acts relating to Dower.

[Passed the 6th of December, 1792.]

I. BE *it enacted by the General Assembly*, That the widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements, and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to which she shall not have relinquished her right of Dower, by deed executed, acknowledged, and recorded, in the manner prescribed by Law for that purpose. Widows intitled to dower.

II. AND till such Dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same; any Law, usage, or custom to the contrary in any wise, notwithstanding. And may remain in the mansion house and plantation until dower be assigned.

III. AND if she be thereof in the mean time deforced, she shall have a vicontiel writ, in the nature of a writ *de quarentina habenda*, directed to the Sheriff; whereupon such proceedings and speed shall be used, as hath or might have been used on the said writ of quarentine. Remedy in case they are in the mean time deforced thereof.

IV. WHOSOEVER shall deforce widows of their Dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall afterwards recover by plea, they that be convicted of such wrongful deforcement, shall yield damages to the same widows; that is to say, the value of the whole Dower to them belonging, from the time of the death of their husbands, unto the day that the said widows by judgment have recovered seizin of their Dower. Damages for deforcing widows of their dower.

V. IN a writ of Dower called *unde nihil habet*, the writ shall not abate by the exception of the Tenant, because the demandant hath received her Dower of another man, before her writ purchased, unless he can shew that the Dower so received was in satisfaction of her right of Dower in the lands whereof she demands Dower. What exception of the tenant shall not abate a writ of dower.

VI. IN case where the husband being impleaded for land by default, the woman after his death demanding her Dower shall be heard, and if it be alledged against her, that her husband lost the land whereof the Dower is demanded by judgment, whereby she ought not to have Dower, and then it be enquired, by what judgment, and it be found it was by default; whereupon the Tenant must answer, then it behoveth the Tenant to answer further, Judgment by default against the husband, shall not bar his widow of her dower.

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and to ſhew that he had right, and hath in the aforeſaid lands, according to the form of the writ that the Tenant before purchaſed againſt the huſband. And if he can ſhew that the huſband of ſuch wife had no right in the lands, nor any other but he that holdeth them, the Tenant ſhall go quit, and the wife ſhall recover nothing of her Dower; which thing if he cannot ſhew, the wife ſhall recover her Dower.

Remedy where the widow is endowed to the prejudice of the heir within age.

VII. AND where ſometime it chanceth that a woman not having a right to demand Dower, the heir being within age, doth purchaſe a writ of Dower againſt a guardian, and the guardian endoweth the woman by favor, or maketh default, or by colluſion defendeth the plea ſo faintly, whereby the woman is awarded her Dower in prejudice of the heir, it is provided that the heir when he cometh to full age, ſhall have an action to demand the ſeizin of his anceſtor againſt ſuch a woman, like as he ſhould have againſt any other deforcer; yet ſo that the woman ſhall have her exception ſaved againſt the demandant, to ſhew that ſhe had right to her Dower; which if ſhe can ſhew, ſhe ſhall go quit, and retain her Dower; and if not, the heir ſhall recover his demand.

Judgment by default against a widow impleaded for her dower ſhall not bar her right.

VIII. IN like manner the woman ſhall be aided, if the heir or any other do implead her for her Dower, if ſhe loſe her Dower by default, in which caſe, the default ſhall not be ſo prejudicial to her, but that ſhe ſhall recover her Dower, if ſhe have right thereto; and ſhe ſhall have this writ:

COMMAND A. that juſtly, &c. he render to B. who was the wife of F. ſo much land, with the appurtenances in C. which ſhe claims to be her reaſonable Dower, (or of her reaſonable Dower) and that the aforeſaid A. deforceth her, &c.

And to this writ the Tenant ſhall have his exception, to ſhew that ſhe had no right to be endowed, which if he can verify, he ſhall go quit, if not, the woman ſhall recover the land whereof ſhe was endowed before.

Widows may bequeath the crops of their dower lands.

IX. ALSO widows may bequeath the crop of their ground, as well of their Dowers, as of other their lands and tenements.

How a wife may forfeit her right of dower.

X. BUT if a wife willingly leave her huſband, and go away and continue with her adulterer, ſhe ſhall be barred for ever of action to demand her Dower, that ſhe ought to have of her huſband's lands, if ſhe be convict thereupon, except that her huſband willingly and without coercion, reconcile her, and ſuffer her to dwell with him; in which caſe ſhe ſhall be reſtored to her action.

Where a jointure mad bar a widow of her dower.

XI. ALSO, if any eſtate be conveyed by deed or will, either expreſsly or by averment, for the jointure of the wife, in lieu of her Dower, to take effect in her own poſſeſſion, immediately on the death of her huſband, and to continue during her life at the leaſt, determinable by ſuch Acts only as would forfeit her Dower at the common Law, ſuch conveyance ſhall bar her Dower of the reſidue of the lands, tenements, or hereditaments, which at any time were her ſaid huſband's. But if the ſaid conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either caſe, the widow may, at her election, wave ſuch jointure, and demand her Dower.

Widows not to have both their dower and the lands intended to be in lieu thereof.

XII. WHEN any conveyance intended to be in lieu of Dower, ſhall, through any defect, fail to be a legal bar thereto, and the widow availing herſelf of ſuch defect, ſhall demand her Dower, the eſtate and intereſt conveyed to ſuch widow, with intention to bar her Dower, ſhall thereupon ceaſe and determine.

How they ſhall be recompenſed when evicted of their jointures, or any part thereof.

XIII. IF a widow be lawfully expulſed or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, ſhe ſhall be endowed of as much of the reſidue of her huſband's lands, tenements, or hereditaments, whereof ſhe was before dowable, as the ſame lands, tenements, or hereditaments, ſo evicted and expulſed, ſhall amount and extend unto.

Repealing clauſe.

XIV. ALL and every other Act and Acts, clauſe and clauſes heretofore made, for or concerning any matter or thing within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Proviſo.

Provided, nothing in this Act contained, ſhall be conſtrued to affect any right which may have accrued, or been veſted, prior to the commencement of this act.

Commencement of this act.

XV. THIS Act ſhall commence in force, from the paſſing thereof.

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CHAP. XCV.

An Act to reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.

[Passed the 11th of December, 1792.]

I. BE *it enacted by the General Assembly*, That any father, even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore, or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a Guardian in common socage hath, and authorise him by action of ravishment of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the Ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a Guardian in common socage may do.

Fathers may by deed or will dispose of the custody and tuition of their infant children.

Such guardians to have the same powers as guardians in common socage.

II. THE High Court of Chancery, generally, and the Court of every County and Corporation in Chancery, within the limits of their jurisdiction, shall have power from time to time to controul Guardians, and hear and determine all matters between them and their Wards; to require security of any Guardian in socage, or statutory Guardian, when that caution shall seem necessary for prevention of any damage his Ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such Guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance, and education of Wards, and preservation of their estates, and for the conduct of Guardians.

High court of chancery and county courts empowered to controul guardians and determine disputes between them and their wards.
To require security of them,
And to displace them and appoint others when necessary.

III. EVERY Court appointing a Guardian, shall take bond of him, with sufficient security for the faithful execution of his Office; and if any Court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the Ward, by an action on the case against the Judges or Justices so making default, may recover so much of the damages which the Guardian and security shall be answerable for, as these shall be unable to pay.

Courts shall take security of guardians appointed by them.

IV. IF any Guardian refuse, or be unable to give the security required of him, the Court may put the estate into the hands of a Curator, the fittest they can prevail upon to undertake the care of it, to be accountable to them, and in that case shall not be responsible for his ability.

If a guardian fails or refuses to give security, the court may appoint a curator.

V. EVERY Guardian or Curator to be appointed by any Court, shall, at the term or session next afterwards, deliver into such Court, an inventory upon oath of all the estate which he shall have received, to be entered of record in a separate book; and such Guardian or Curator, and every Guardian heretofore appointed, shall exhibit to such Court once in every year, which if it be a County or Corporation Court, shall be in *September*, or at the next session, if there be none in that month, or oftener, if he shall be specially required, accounts of the produce of the estate, of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the Court, or by such persons as the Court shall refer them to; and being found and certified or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the Court, shall with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the Ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

Guardians appointed by the court to deliver inventories of their wards estates.
Their accounts to be exhibited to the court once in every year, or oftener if required:
To be examined, and if approved to be recorded.

Exceptions thereto, how to be made.

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The court may compel a guardian to give supplemental security.

VI. THE Court at any time when they ſhall know or have cauſe to ſuſpect that the ſurety of a Guardian is failing, may require and compel ſuch Guardian to give ſupplemental ſecurity, or if he refuſe or neglect to do ſo, may diſplace him.

Proceedings againſt guardians failing to deliver in inventories and accounts.

Penalty on the juſtices for neglect.

VII. A GUARDIAN who ſhall not deliver in ſuch inventory, and render ſuch accounts as aforeſaid, ſhall, by order of the Court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty, or be diſplaced; for which purpoſe the ſummons or other proceſs from a County or Corporation Court may be directed to, and ſhall be executed by the Sheriff of any other County wherein the Guardian may be found; and every Judge or Juſtice of the Court ſitting therein, at any time during the term or ſeſſion in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced.

Balance due to the guardian for diſburſements to be debited in the account of the enſuing year.

Balance due to the ward, how to be diſpoſed of.

VIII. IF the diſburſements of the Guardian being ſuitable to the eſtate and circumſtances of the Ward, ſhall exceed the profits of his eſtate in any year, the balance, with the allowance of the Court, may be debited in the account of the ſucceeding year, and the balance appearing on the contrary ſide may be put out to intereſt, for the benefit of the Ward, upon ſuch ſecurity as the Court ſhall approve, or the Guardian, if it remain in his hands, ſhall account for the intereſt; to be computed from the time his accounts were or ought to have been paſſed.

Securities for guardians in danger of ſuffering, how to be relieved.

IX. IF any ſurety for a Guardian by petition to the Court before whom they were bound, ſetting forth that he apprehends himſelf to be in danger of ſuffering thereby, ſhall pray that he may be relieved, the Court, after a ſummons to anſwer the petition, ſhall have been ſerved upon the Guardian, or a copy of ſuch ſummons ſhall have been left at the place of his uſual abode, ſhall order him to give counter ſecurity, or to deliver the Ward's eſtate into the hands of the ſurety, or ſome other perſon, and in that caſe taking ſufficient ſecurity; or may make ſuch other order for the relief of the petitioner, as to them ſhall ſeem juſt.

When a guardian dies, the debt due to his ward to be firſt paid.

X. THE eſtate of a Guardian not under a ſpecific lien, ſhall, after the death of the Guardian, be liable for whatſoever may be due from the Guardian on account of his Guardianſhip, to his Ward, before any other debt due from ſuch Guardian.

Poor orphans to be bound apprentices by the overſeers of the poor.

XI. EVERY orphan who hath no eſtate, or not ſufficient for a maintenance out of the profits, ſhall, by order of the Court of the County or Corporation in which he or ſhe reſides, be bound Apprentice by the Overſeers of the poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to ſome maſter or miſtreſs, who ſhall covenant to teach the Apprentice ſome art, trade, or buſineſs, to be particularized in the indenture, as alſo reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of ſuch Apprentices ſhall be filed in the Office of the Clerk of the County, and not transferable to any perſon whatſoever, without the approbation of the Court.

Guardians may bind out their wards as apprentices, with the approbation of the court.

Apprentices over ſixteen years of age, may bind themſelves to ſerve until they are twenty-four.

XII. ANY Guardian may with the approbation of that Court in which his appointment ſhall be recorded, and not otherwiſe, bind his Ward Apprentice to ſuch perſon for learning ſuch art or trade, and with ſuch covenants on the part of the maſter or miſtreſs, as the ſaid Court ſhall direct; and every ſuch Apprentice with the like approbation, or any Apprentice bound by his father, may, with the approbation of the Court of that County in which the father ſhall reſide, after he ſhall be ſixteen years of age, agree to ſerve until he ſhall be twenty-four years of age, or any ſhorter time, and ſuch agreement entered on record ſhall bind him.

Where infants are ſeized of lands, &c. in truſt, deeds executed by their guardians by order of the court of chancery, ſhall be as valid as if executed by the truſtees when of full age.

XIII. WHERE any perſon under the age of twenty-one years is, or ſhall be ſeized, or poſſeſſed, of any lands, tenements, or hereditaments, in truſt, or by way of mortgage, the Guardian of ſuch infant, upon petition of one or more of the parties intereſted to the High Court of Chancery, by order of ſuch Court, made after hearing the parties, may execute any ſuch deed, or perform any other ſuch act, as the truſtee or mortgagee, if he were of full age, might have executed or performed; and ſuch deed or other act ſhall be as valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed.

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XIV. ALSO the said Court may in like manner empower such Guardian to make or take a surrender of a former lease, and to take or make a new lease, as the case may require, and as it shall seem most to the advantage of the infant, out of whose estate any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed; and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

Guardians may make or take surrenders of leases, or make new leases under the direction of the court of chancery.

XV. THE Court of every County, City, or Borough, shall at all times receive the complaints of Apprentices, being Citizens of any one of the United States of *America*, who reside within the jurisdiction of such Court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the Apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their Apprentices, for desertion without good cause.

County and corporation courts to hear the complaint of apprentices against their masters,

And of masters against their apprentices.

XVI. IN every case where such as be within age may sue, their next friends shall be admitted to sue for them.

Infants may sue by their next friends.

XVII. *AND be it further enacted*, That the Courts of Hustings in the Cities of *Williamsburg* and *Richmond*, and Borough of *Norfolk*, and all other incorporated towns, shall have the same power as is hereby given to the County Courts.

Corporation courts to have the same powers under this act as the county courts.

XVIII. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

XIX. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. XCVI.

An Act reducing into one, the several Acts to prevent unlawful Gaming.

[Passed the 8th of December, 1792.]

I. BE *it enacted by the General Assembly*, That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, before or after passing this Act, where the whole or any part of the consideration of such promise, agreement, conveyances, or securities, shall be for money or other valuable thing whatsoever, won, laid or betted at cards, dice, tables, tennis, bowles, or any other game or games whatsoever, or at any horse-race, cock-fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money, knowingly lent or advanced, at the time and place of such play, horse-racing, cock-fighting, or other sport or pastime, to any person or persons so gaming, betting, or wagering, or that shall at such time and place, so play, bet or wager, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any Law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

All promises, agreements, securities and conveyances for gaming debts, void.

II. ANY conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent or advanced to, the seller, lessor, or mortgagor, or whereof money or other thing so won, or lent, or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor, or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments, so leased, mortgaged, bargained, or sold, and in the slaves, or other personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate.

Real estate under any incumbrance for gaming debts, shall devolve to the next heirs.

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When & how any person losing money at gaming may recover it from the winner.

III. IF any person or persons whatsoever, at any time hereafter within the space of twenty-four hours, by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one or more person or persons so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying, or delivering the same, shall be at liberty within three months then next following, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt founded on this Act, to be prosecuted in any Court of Record within this Commonwealth, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the Plaintiff to alledge that the Defendant is indebted to the Plaintiff, or received to the Plaintiff's use, the money so lost and paid, or converted the goods won of the Plaintiff to the Defendant's use, whereby the Plaintiff's action accrued to him according to the form of this Act, without setting forth the special matter; and in case the party losing such money or other thing, as aforesaid, shall not within the time aforesaid, really and *bona fide*, without covin or collusion, sue, and with effect prosecute for the money or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person or persons, by any such action or suit, as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners, as aforesaid, the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the parish where such offence shall be committed; and every person who by virtue of this present Act, shall or may be liable to be sued for monies or other things so won, as aforesaid, shall be obliged and compellable to answer upon oath, such bill or bills as shall be prefered against him or them, for discovering the money or other things so won at play, as aforesaid.

If he does not sue within three months any other person may, and recover the money paid, and treble the value.

The defendants compellable to answer on oath, bills in equity for discovering what was won.

But discharged by repayment thereof, from the penalty.

IV. *PROVIDED always*, That upon discovery and repayment of the money, or other thing so to be discovered and repaid, as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified, and discharged from any further or other forfeiture, punishment, or penalty which he or they may have incurred by the playing for and winning such money or other thing so discovered and repaid.

Penalties for playing at public houses.

V. AND to prevent gaming at Ordinaries and other public places, which must be often attended with quarrels, disputes, and controversies, the impoverishment of many people and their families, and the ruin of the health, and corruption of the manners of youth, who upon such occasions frequently fall in company with lewd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming: *Be it further enacted*, That if any person or persons shall at any time play in an ordinary, race-field, or any other public place, at any game or games whatsoever, except billiards, bowles, backgammon, chess, or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof, before any Justice of Peace in any County within this Commonwealth, by the oath of one or more credible witness or witnesses, (which oath the said Justice is hereby empowered to administer) or by the view of such Justice, or the confession of the party accused, shall forfeit and pay twenty dollars, to be levied by distress and sale of the offenders goods, by warrant under the hand of the Justice before whom such conviction shall be, and for the use of the poor of the parish wherein such offence shall be committed; and moreover, every person so convicted, shall be committed to the County Jail, there to remain until he, she, or they, give sufficient security for his, her, or their good behaviour for twelve months next after such conviction.

For losing or winning more than 20 dollars in twenty-four hours.

VI. IF any person by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or any thing of greater value than twenty dollars, the loser and winner shall be liable to pay one half of the entire sum above the said sum of twenty dollars which he shall so win or lose; and upon information thereof made to any County Court, and due proof thereof had, such County Court shall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to lessening the levy of the County wherein such offence shall be committed.

Gamesters having no visible means of

VII. AND whereas divers lewd and dissolute persons live at great expences, having no visible estate, profession, or calling to support them, but by gaming only: *Be it therefore*

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enacted, That it ſhall be lawful for any two Juſtices of Peace in any County or Corporation, to cauſe to come or be brought before them, every perſon within their reſpective limits, whom they ſhall have juſt cauſe to ſuſpect to have no viſible eſtate, profeſſion, or calling to maintain himſelf by, but for the moſt part ſupporting himſelf by gaming; and if ſuch perſon ſhall not make it appear to ſuch Juſtices, that the principal part of his expences is not maintained by gaming, they ſhall require of him ſufficient ſecurities for his good behaviour for the ſpace of twelve months, and on refuſal thereof, ſhall commit him to the common Jail, there to remain until he ſhall find ſuch ſecurities; and if ſuch perſon ſhall give ſuch ſecurities, and afterwards within that time ſhall play or bet for any money or other valuable thing whatſoever, ſuch playing or betting ſhall be a breach of the behaviour, and a forfeiture of the recognizance given for the ſame. ſupporting themſelves, may be bound to good behavior committed.

VIII. AND to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any perſon or perſons ſhall aſſault and beat, or ſhall challenge or provoke to fight, any perſon or perſons whatſoever, upon account of any money or other thing won by gaming or betting, the perſon and perſons ſo aſſaulting, beating, challenging, or provoking to fight, being thereof convicted, ſhall forfeit to the party grieved thirty dollars, to be recovered with coſts, by action of debt in any County Court; and moreover ſhall be liable to the action of the party grieved, at the common Law. Penalty on perſons aſſaulting or challenging others on account of money, &c. won by gaming.

IX. *AND be it further enacted*, That if any perſon or perſons whatſoever, do, or ſhall at any time or times by any fraud, ſhift, cozenage, circumvention, deceit, unlawful device, or evil practice whatſoever, in playing at, or with cards, dice, or any other game or games, or in, or by bearing a ſhare or part in the ſtakes, wagers, or adventures, or in, or by betting on the ſides or hands of ſuch as do or ſhall play, win, obtain, or acquire to him or themſelves, or to any other or others, any ſum or ſums of money, or other valuable thing or things whatſoever, every perſon ſo winning by ſuch ill practice, and being thereof convicted upon indictment, or information, ſhall forfeit five times the value of the money or other thing ſo won, and ſhall be deemed infamous, and ſuffer ſuch corporal puniſhment as in caſes of wilful perjury; and ſuch penalty ſhall be recoverable with coſts by any perſon or perſons ſuing for the ſame, by action of debt in any Court of Record in this Commonwealth, having cognizance thereof. Puniſhment of cheats.

X. *PROVIDED always*, That any perſon aggrieved by the judgment of any Juſtice of Peace upon any conviction for any of the offences in this Act cognizable before him, may appeal to the next Court to be held for the County where ſuch perſon ſhall be convicted, but ſhall give reaſonable notice of ſuch appeal to the party proſecuting him or her, and ſhall alſo enter into recognizances with two ſufficient ſecurities, before ſome Juſtice of the County wherein the judgment was given, on condition to try ſuch appeal at the next Court held for the ſame County after the entering ſuch appeal, which ſhall be by the ſaid Court then heard and finally determined: *Provided alſo*, that no ſuch judgment ſhall be ſet aſide for want of form, wherein it ſhall appear to the Court, that the facts were ſufficiently proved at the trial, nor ſhall any judgment be removed or removable by appeal, or any writ or proceſs whatſoever, into the Diſtrict Court. Liberty of appeal from the judgment of the Juſtice to the county court.

XI. ALL and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C. or E. O. tables, or of a Farro-bank, or of any other gaming table or bank of the ſame, or the like kind under any denomination whatever, ſhall be deemed and treated as vagrants; and moreover it ſhall and may be lawful for any Juſtice of the Peace, or Magiſtrate of any Corporation Court, by warrant under his hand, to order any ſuch gaming table to be ſeized and publicly burnt or deſtroyed. Keepers of A. B. C. or E. O. tables, or Farro-banks, or other like tables or banks to be deemed vagrants. And their tables to be deſtroyed.

XII. NO perſon in order to raiſe money for himſelf or another, ſhall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever ſhall offend herein, ſhall forfeit the whole ſum of money propoſed to be raiſed by ſuch lottery, raffling, or playing, to the uſe of the Commonwealth. Private lotteries prohibited.

XIII. THE preſiding Juſtice as well in the Diſtrict as in all the Inferior Courts of Law in this Commonwealth, ſhall conſtantly give this Act in charge to the Grand Juries of their Courts, at the times when ſuch Grand Juries ſhall be ſworn. This act to be given in charge to grand juries.

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Repealing clause. Proviso.

XIV. EVERY Act, or clause in any Act concerning any matter within the purview of this Act, shall be, and is hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this act.

XV. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. XCVII.

An Act against Champerty.

[Passed the 8th of December, 1792.]

Who are champertors. How they shall be punished.

I. BE *it enacted and declared, by the General Assembly*, That Champertors be they that move pleas and suits, and cause them to be moved, by their own procurement or by others, and sue them at their own proper costs and charges, to have a part of the land in variance, or part of the gains; and those who are convicted thereof by the verdict of a Jury, shall be punished, by imprisonment and amercement, at the discretion of the Jury before whom they shall have been found guilty, and such amercement and imprisonment shall be ascertained at the time of such conviction.

Commencement of this act.

II. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCVIII.

An Act against Hog-Stealing.

[Passed the 8th of December, 1792.]

Punishment of hog-stealers not being slaves, for the first offence.

When sued for the penalty, the defendant may be ruled to give special bail.

I. BE *it enacted by the General Assembly*, That if any person not being a slave, shall steal any hog, shoat, or pig, he, or she, shall, for the first offence, receive on his or her bare back, twenty-five lashes well laid on, at the public whipping-post of the County where he or she shall be convicted, or pay thirty dollars, to the use of the same County, towards lessening that County levy, and shall moreover pay eight dollars for every such hog, shoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with costs at the suit of the informer, by action of debt in any County Court within this Commonwealth; and in all suits to be brought, or informations filed, against any person not being a slave, for hog-stealing, it shall be lawful for the Court to rule the Defendant to give special bail, and to commit him or her to prison, until he or she shall give such bail.

Punishment for the second offence.

II. AND if any person other than a slave, shall offend a second time, and be thereof convicted, he, or she, shall stand two hours in the pillory, on a Court day, at the Court-house of the County where such conviction shall be, and have both ears nailed thereto, and at the end of two hours have the ears cut loose from the nails, which judgment the respective County Courts of this Commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the District Court within whose jurisdiction such County shall be; such party giving bond with good security, in the sum of one hundred dollars, for his or her personal appearance in the said Court, according to the appeal, and to perform and abide their award; and moreover, every such offender shall pay and satisfy eight dollars for every stolen hog, shoat, or pig, to the owner or informer, to be recovered as aforesaid. And if there be several offenders in one and the same fact, although but one hog, shoat, or pig be stolen, each person may be particularly prosecuted, and upon conviction, shall be adjudged to suffer the punishment, and pay the whole fine as aforesaid.

Where there are several offenders in one fact, each of them liable to punishment.

If servants be convicted, the penalty to be

III. IF any servant shall be convicted of hog-stealing, his or her master or owner, shall pay and satisfy eight dollars, to be recovered and divided as aforesaid, whether it be for the

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first or second offence, and shall be repaid for the same, and costs of suit, by further service of such offender, after his or her time, due by indenture, contract, or former judgment shall be expired, at the rate of three dollars for one month's service, and judgment shall be entered up accordingly. — paid by the master and repaid by the servant.

IV. WHEN any slave or slaves shall hereafter steal any hog, shoat, or pig, it shall be lawful for any Justice of Peace of the County where such offence shall be committed, upon complaint or information thereof to him made, to cause such offender or offenders, and the witness or witnesses, to come before him; and if upon examination, any slave or slaves appear to be guilty, to commit him, her, or them to prison, or bind every such offender with security, to appear personally before the Court next thereafter to be held for his County, to answer such complaint or information, and to abide the judgment of the said Court; and the Justices thereof are hereby required to direct the person appointed to prosecute for the Commonwealth in the same Court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said Court to hear and determine the matter of such charge or complaint without any jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of Negroes, Mulattoes or *Indians*, bond or free, as to them shall seem convincing; and if, in the opinion of such Court, the slave or slaves so charged, is, or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post; and upon a second conviction, shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any Negro, Mulatto, or *Indian*, shall, upon due proof made, or pregnant circumstances appearing to any County Court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog-stealing, every such offender, without further trial, shall be by such Court ordered to receive the same corporal punishment as the slave tried for hog-stealing would receive upon conviction. And the first Justice in commission, sitting at such trial, shall, before the examination of such Negro, Mulatto, or *Indian*, charge such evidence to speak the truth, and shall also inform him or her of the consequence of giving false testimony.

How slaves shall be prosecuted and punished for hog-stealing.

For the first offence.

For the second offence.

Punishment of false witnesses.

V. IF any person whatsoever, shall be the third time convicted of hog-stealing, every such offender shall be adjudged a felon. — Third offence felony.

VI. IF any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive any such, and not immediately discover the same to a Justice of the Peace, he or she so offending, shall be adjudged a hog-stealer: *Provided nevertheless*, that any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property.

Bringing home, or carrying on board any vessel, hogs without ears, hog-stealing, unless the party proves his property.

VII. ALL tributary *Indians* keeping swine, shall give them the same mark, which hath been, or by the next adjacent County Court shall be allowed to the town to which such *Indians* respectively belong; and if any person not being an *Indian*, shall buy or receive from any *Indian* any pork, and cannot prove such pork to be of the proper mark of the town of *Indians*, to which the *Indian* of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay twenty-five dollars, one half to the Commonwealth, and the other half to the informer; to be recovered with costs, by action of debt in any Court of Record within this Commonwealth.

Indians hogs to have the mark of their town.

VIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence, committed or done before the commencement of this Act.

Repealing clause.

Proviso.

IX. THIS act shall commence in force, from and after the passing thereof. — Commencement of this act.

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CHAP. XCIX.

An Act to prevent Malicious Shooting, Stabbing, Maiming, and Disfiguring.

[Passed the 17th of December, 1792.]

Punishment for maiming or disfiguring another.

I. BE *it enacted by the General Assembly,* That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose, or lip, or cut off or disable any limb or member of any person whatsoever, within the Commonwealth; in so doing to maim or disfigure, in any of the manners before mentioned, such person, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

For shooting or stabbing another.

II. IF any person shall shoot, or stab any person within the Commonwealth, with an intent to maim, disfigure, or kill, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

Repealing clause. Proviso.

III. ALL other Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided always,* That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this act.

IV. THIS Act shall commence in force, from and after the passing thereof.

CHAP. C.

An Act declaring the Punishment of the Crime of Buggery.

[Passed the 10th of December, 1792.]

Punishment for buggery.

I. BE *it enacted and declared, by the General Assembly,* That if any do commit the detestable and abominable vice of Buggery, with man or beast, he or she so offending, shall be adjudged a felon, and shall suffer death, as in case of felony, without the benefit of Clergy.

Commencement of this act.

II. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CI.

An Act declaring the Punishment of Horse-Stealers, and their Accessories, and reducing into one, the several Acts to encourage the Apprehenders of Horse-Stealers.

[Passed the 10th of December, 1792.]

Punishment of horse-stealers.

I. BE *it enacted and declared, by the General Assembly,* That if any person do feloniously take, or steal, any Horse, Mare, or Gelding, Foal, or Filly, the person so offending, shall not be admitted to have or enjoy the benefit of Clergy, but shall be utterly excluded thereof, and shall suffer death as in case of felony.

Of their accessories.

II. AND for as much as felons are much encouraged to steal Horses, because a great number of persons make a trade to receive and buy of such felons, the Horses by them feloniously taken, and also do make it their business to conceal such Offenders after the said fact, knowing such felonies to be by them committed: *Be it therefore enacted,* That if any person or persons shall receive or buy any Horse, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall harbour or conceal any

Horse-Stealer, knowing him, her, or them to be so, such person or persons shall be taken and received as accessory or accessories to the said felony; and being of either of the said offences legally convicted, by the testimony of one or more credible witness or witnesses, shall incur and suffer the pain of death as a felon convict.

III. *PROVIDED always*, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence, yet, nevertheless, it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any Horses stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the Court shall think fit to inflict, although the principal felon be not before convict of the said felony; which shall exempt the Offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted. How the accessories may be punished if the principals be not convicted.

IV. WHOSOEVER shall apprehend one charged with Horse-stealing, if the prisoner be convicted of that crime, shall be entitled to a reward of twenty dollars from the Treasury, upon a certificate from any of the District Courts of this State, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given was sufficient, without his testimony, to convict the prisoner. Reward for apprehending a horse-stealer.

V. THE legal representative of any person killed in endeavouring to apprehend any Horse-stealer, shall receive the sum of one hundred and seventy dollars, to be paid by the Treasurer, upon the order of the Auditor, which he is hereby directed to issue, upon a certificate delivered under the hands and seals of two Justices of the Peace of the County where the fact was committed, that such person was so killed; which certificate the said Justices, upon sufficient proof before them made, are required immediately to give. Reward of executors, &c. of persons killed in pursuit of, or in taking a horse-stealer.

VI. ALL and every Act or Acts, Statute or Statutes, clause or clauses of Acts, coming within the purview of this Act (except as herein after provided) shall be, and the same are hereby repealed. *Provided, nevertheless*, that nothing herein contained, shall be construed to repeal any such Statute or Acts, for so much of any of them, as may relate to any offence within the purview thereof, committed or done before the commencement of this Act. Repealing clause. Proviso.

VII. THIS Act shall commence in force, from and after the passing thereof. Commencement of this act.

CHAP. CII.

An Act providing for the Poor, and declaring who shall be deemed Vagrants.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That the Court of every County within this Commonwealth, after the expiration of the period during which the present Overseers of the poor for the respective Counties are to continue in office, under the last general election, or before that period, as hereinafter directed, shall cause their said County to be laid off into convenient Districts, not exceeding four in each County, and shall direct the Sheriff of the County to cause publication to be made, that on some day to be appointed by the said Court, an election will be held within each District, to consist of freeholders and house-keepers only, for the purpose of choosing three discreet and fit persons, being freeholders of, and resident within the same, who shall be called and denominated Overseers of the poor, and shall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections shall be made in the same manner, but the general elections shall in all cases be computed from the first day of April, in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than this Act directs. The County Court may at any session within six months before the first day of *April*, which will be in the year in which the general election of Overseers is to be held, enter into the measures directed by this Act for regulating the same, and may fix on some convenient day for holding the said elections. Overseers of the poor, how and by whom to be elected. To continue in office three years.

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The county court to appoint a perſon to ſuperintend the election.

II. AND the ſaid Courts reſpectively, ſhall appoint ſome perſon in each Diſtrict, to ſuperintend the election; and if any perſon ſo appointed, ſhall refuſe, or neglect to ſerve, without reaſonable excuſe, he ſhall forfeit and pay for every ſuch refuſal or neglect, the ſum of thirty dollars, to be recovered for the uſe of the poor of the County, in any Court of Record, by action of debt or information founded on this Act, together with coſts. And the perſon who ſhall be appointed to ſuperintend any election, ſhall return the names of the perſon or perſons choſen, to the Clerk of the County, who ſhall thereupon iſſue a writ to the Sheriff of the County, commanding him that ten days before the enſuing Court-day, he ſhall inform the ſaid perſon or perſons, that he or they hath or have been elected Overſeer or Overſeers of the poor, and require him or them to appear at the next Court-day, and make oath that he or they will truly and faithfully adminiſter the ſaid office. And any perſon being duly elected, who ſhall refuſe, or neglect to ſerve as an Overſeer of the poor in the County of which he is an inhabitant, unleſs diſqualified by age or other infirmity, ſuch diſqualification to be judged of by the County Court, ſhall forfeit and pay thirty dollars; to be recovered with coſts, by action of debt or information, in any Court of Record within this Commonwealth: *Provided*, That no perſon ſhall be compelled to ſerve more than three years, nor be ſubject to the penalty for refuſing more than once in every term of nine years.

Return to be made of the perſons elected.
Overſeers of the poor to be informed of their appointment.
How qualified.
Penalty for refuſing to ſerve without a reaſonable excuſe.
Proviſo.

When they ſhall be appointed by the county courts.

III. WHENEVER it ſhall ſo happen that the perſon appointed to ſuperintend the election of Overſeers of the poor in any Diſtrict, ſhall fail to attend agreeable to his appointment, or in caſe there be no election, on account of the non-attendance of the electors, or in caſe of the death, refuſal, or diſability of any Overſeer or Overſeers of the poor, the County Court ſhall, and they are hereby required, at their next Court, to fill any vacancy that may ſo happen, by appointing perſons to ſerve for the ſame time ſuch perſon or perſons ſhould otherwiſe remain in office.

Overſeers to meet together annually, and levy the poor rate.

IV. THE Overſeers of the poor in every County, although in different Diſtricts, ſhall meet annually at ſome convenient place, to be appointed by a majority of them, on the firſt Monday in *March*; but if the number required by law ſhall not aſſemble on that day, it ſhall be lawful for a ſufficient number to meet and perform the buſineſs on any ſubſequent day in the ſaid month. The Overſeers of the poor of the different Diſtricts, if there be more than one in the County, ſhall bring with them to ſuch annual meeting, a diſtinct ſtate of the number, names, and ſituation of the poor, and an account of their expenditures in their reſpective Diſtricts; and a majority of the Overſeers of the poor in the County ſo meeting, and there being in ſuch majority at leaſt one Overſeer of the poor from each Diſtrict, ſhall chooſe a Preſident, and ſhall be empowered to regulate the neceſſary proviſions to be made for all the poor of the County, excluſive of the poor of any corporate town, for the ſucceeding year, as well as to adjuſt and ſettle the charges of ſupporting and maintaining the poor the preceding year, and to levy and aſſeſs upon all ſuch taxables of their County as are ſubject to County levies, except the inhabitants of any corporate town, and ſettle the amount of the poor rate upon each ſuch taxable in ſpecie; for which purpoſe the Clerk of the County ſhall furniſh the ſaid Overſeers with a certified copy of the liſt of all ſuch taxables in the County, excluſive of thoſe in any corporate town within the ſame, if any ſuch there be.

To provide for the poor, lame, and blind.

V. THE Overſeers of each Diſtrict ſhall provide for the poor, lame, blind, and other inhabitants of the Diſtrict not able to maintain themſelves, and may alſo provide houſes, nurſes, and doctors, in ſuch caſes as they or a majority of them ſhall think neceſſary; the expences of which ſhall be provided for in the ſucceeding levy.

County court may direct them to receive any poor perſon on their liſt.

VI. IF any poor perſon ſhall ſuppoſe that he or ſhe is entitled to the benefit of the laws for the relief of the poor, and the Overſeers of the Diſtrict in which he or ſhe reſides, ſhall refuſe to give ſuch perſon the benefit thereof, upon application of ſuch perſon, the County Court may, if they think proper, direct the Overſeers to receive him or her upon their liſts of poor.

Poor perſons ſtrolling from one county to another, may be removed to that in which they were laſt legally ſettled.

VII. THE Overſeers of each Diſtrict ſhall take effectual meaſures to prevent the poor reſident within the ſame from ſtrolling into another County; and each of the Overſeers within a County, may make complaint before a Juſtice of the Peace, that any poor perſon or poor perſons, is, or are come into their County, and is, or are likely to become chargeable thereto; whereupon it ſhall be lawful for ſuch Juſtice, by warrant under his hand, to cauſe

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ſuch poor perſon to be removed to the County or Diſtrict, where he or ſhe was laſt legally ſettled; but if ſuch poor perſon be ſick or diſabled, and cannot be removed without danger of life, the Overſeers ſhall provide for his or her maintenance or cure, at the charge of their County, and after recovery, ſhall cauſe him or her to be ſo removed, and the County or Diſtrict wherein he or ſhe was laſt legally ſettled, ſhall repay all charges occaſioned by the ſickneſs, maintenance and cure of ſuch poor perſon, and for removing him or her, and alſo all charges and expences, if ſuch perſon ſhall die before removal. And if the Overſeers of the County or Diſtrict to which ſuch poor perſon belongs, ſhall refuſe to receive and provide for the perſon or perſons ſo removed, every Overſeer ſo refuſing, ſhall forfeit and pay ſixty dollars. And if the Overſeers of the poor where ſuch poor perſon was laſt legally ſettled, ſhall refuſe to pay and ſatisfy all the charges and expences aforeſaid, the ſame may be recovered from them by ſuit, to be brought in the names of the Overſeers by whom ſuch diſburſement may have been made, with the coſts of ſuch ſuit, in any Court of Record.

Diſputes concerning reſidence of poor perſons how to be determined.

VIII. WHERE any diſpute ſhall ariſe reſpecting the reſidence of any poor perſons, the Court of any County adjacent, is authoriſed to take cognizance thereof, and to determine the ſame.

Overſeers of the poor to make monthly returns to the county courts of the poor orphans, and of the children of perſons unable to ſupport them, and bind them apprentices.

IX. THE Overſeers of the poor of each Diſtrict ſhall monthly make returns to the Court of their County of the poor orphans in their Diſtrict, and of ſuch children within the ſame, whoſe parents they ſhall judge incapable of ſupporting them, and bringing them up in honeſt courſes; and the ſaid Court is hereby authoriſed to direct the ſaid Overſeers, or either of them, to bind out ſuch poor orphans and children apprentices to ſuch perſon or perſons as the Court ſhall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms preſcribed and directed by the act, "*To reduce into one, the ſeveral Acts concerning Guardians, Orphans, Committees, Infants, Maſters, and Apprentices.*"

To appoint a collector of the poor rate, and take bond and ſecurity of him.

X. AND the Overſeers of the poor ſhall alſo be, and they are hereby empowered and required, at their annual meeting, to appoint a collector of ſuch County poor rate, and to take from him bond with ſufficient ſecurity, in a ſum double the amount of the ſum to be collected by him, payable to their Preſident, for the uſe of the ſaid Overſeers of the poor, to be applied towards leſſening the County poor rate, and conditioned for the faithful and diligent collection of the ſaid poor rate, and the payment to the ſeveral perſons reſpectively entitled thereto, of the ſums of money due to them according to the entries and accounts of the ſaid Overſeers of the poor, (a copy of which ſhall be delivered to ſuch collector,) and alſo for ſettling with the ſaid Overſeers of the poor, or their ſucceſſors, at the next annual meeting, a juſt and true account of all his receipts and diſburſements, with proper vouchers, and paying whatever balance ſhall, upon ſuch ſettlement, appear to be in his hands.

Collectors commiſſion. When they may diſtrain for the poor rates.

XI. THE ſaid collector ſhall be allowed the ſame commiſſion for receiving the poor rate as the Sheriff is by Law allowed for receiving County levies, and ſhall be ſubject to the ſame rules and regulations, and ſhall have the power of diſtreſs in caſe of non-payment of any perſon chargeable therewith, immediately after the tenth day of *April* in every year.

Sheriffs and ſerjeants bound to collect the poor rates if required.

XII. IT ſhall be the duty of the Sheriff of every County, and of the Serjeant of any City or Borough, if appointed by the Overſeers of the poor to collect any poor rate, to collect and account for the ſame, and they ſhall be liable to all things required and impoſed on a collector of ſuch rate by Law. Any Sheriff or Serjeant refuſing to undertake ſuch collection, ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered in manner aforeſaid, for the uſe aforeſaid.

If the collector dies, another may be appointed.

XIII. IN caſe of the death of any perſon appointed to collect the poor rates at any time before his collection begins, the Overſeers of the poor ſhall and may have power to aſſemble and appoint another collector, of whom they ſhall take bond with ſufficient ſecurity, in the ſame manner as is directed to be taken of a collector appointed at their annual meeting; which collector ſhall have the ſame powers, and be ſubject to the ſame rules and regulations, and be moved againſt in the ſame manner, as other collectors of the poor rates.

Collectors may appoint deputies. Remedy againſt them

XIV. IT ſhall be lawful for ſuch collector to appoint one or more deputies to aſſiſt him in the collection of the poor rate, for whoſe conduct he ſhall be anſwerable, which deputies ſhall have the ſame powers as the collector himſelf; and if ſuch collector ſhall refuſe or neglect to ſettle his accounts with the Overſeers of the poor, as herein before directed, or ſhall

For failing to settle their accounts or pay the money.

fail or refuse to pay them any money which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more Overseers, on or before the first day of *September* annually, it may and shall be lawful for the Court of the County and Corporation wherein such collector was appointed, upon the motion of the Overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities, for the sums of money respectively due to the said Overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies, or either of them, and their securities respectively, for any sums of money which, by virtue of this Act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies.

Against the overseers of the poor for failing to pay the money to the persons intitled thereto

XV. WHENSOEVER any Overseer or Overseers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such Overseer or Overseers, their heirs, executors, or administrators, as he, or they, might have had against the collector if the money had remained in his hands.

Overseers to settle with their predecessors, and with the former collectors.

XVI. THE Overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former Overseers, and to receive from them any sums of money which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any Vestry, or by any former Overseers, for a settlement of their accounts, and payment for any balances which shall be in their hands; and on failure of such payment, they shall have the same mode of recovery as is directed by this Act, for the recovery of money or tobacco in the hands of a collector of their own appointment. Wheresoever any former churchwarden, collector, or Overseer of the poor is dead, or shall hereafter die, without settling his accounts and paying the balance due from him, his executors and administrators shall be liable to the same recovery as the churchwarden, collector, or Overseer himself would have been subject to in his lifetime: Saving to such executors and administrators, the benefit of all pleas, to which they may be by Law entitled.

To levy a sufficient sum to pay any arrears due.

XVII. THE said Overseers of the poor shall also be, and are hereby empowered, to levy in the manner before directed, such sums of money as shall be necessary to pay any arrears which may be due and unpaid by any Parish or District to individuals.

Their proceedings and accounts to be entered in a book.
May appoint a clerk.

XVIII. ALL the proceedings and accounts of the Overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting; and for this purpose the said Overseers of each County, or a majority of them, shall be, and are hereby empowered to appoint a Clerk, and at any time upon his misbehaviour or neglect of duty, to remove him and appoint another in his stead, and to make such Clerk an allowance not exceeding twenty dollars annually for his services.

How they shall vote.

XIX. AT the said annual meeting, each of the Overseers of the County who are present, shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the President shall have voted.

Allowance to them.
Penalty for non-attendance.
Penalty on their clerk for non-attendance.

XX. THE Overseers of the poor if they demand the same, shall be allowed one dollar each, to be charged in their account of other expenditures, for every day they shall attend the beforementioned annual meeting, and shall be subject to a penalty of two dollars for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof; and their Clerk shall in like manner be subject to the penalty of two dollars for every day he shall fail to attend such annual meeting, unless such Overseers of the poor, or their Clerk respectively, shall be prevented from attendance by sickness, or other unavoidable accident; to be recovered with costs by warrant before any Justice of the Peace for the County.

County courts may exempt persons from

XXI. THE Courts of the several Counties within this Commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from

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the payment of public taxes; and all those persons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the said poor rates. payment of poor rates.

XXII. THE Overseers of each District shall in the month of *October*, in each year, settle their accounts with the County Court, and the money which shall remain in their hands, or in the hands of their collector, unappropriated, shall be deducted from the rate to be made for the ensuing year. And the Overseers of each District failing to render their accounts as aforesaid, shall respectively be liable to a forfeiture of one hundred dollars for such failure, to be recovered by an action of debt in their respective County Courts, commenced in the name of the Clerk of the said Court, (at the expence of the County) to be applied towards lessening the levy of such County, and the Court of the County where the failure shall happen, are hereby directed to order the Attorney for the Commonwealth to institute the suit.

Overseers annually to settle their accounts with the county courts. Penalty for failure.

XXIII. IF any single woman not being a servant or slave, shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any County, and shall upon examination before any Justice of the Peace of the County, to be taken in writing upon oath, charge any person not being a servant, with being the father of such bastard child, it shall and may be lawful for any Justice of the Peace of the County, wherein the person so charged shall be a resident or inhabitant, upon application made to him by the Overseers of the poor, or any one of them of the County wherein such child shall be born, to issue his warrant for the immediate apprehending the person so charged as aforesaid, and for bringing him before such Justice, or before any other Justice of the Peace of the County wherein he is a resident or inhabitant; and the Justice before whom such person shall be brought, is hereby authorised and required to commit the person so charged as aforesaid, to the common Jail of his County, unless he shall enter into a recognizance, with sufficient security, in the sum of thirty dollars, upon condition to appear at the next Court to be held for such County, and to abide and perform such order or orders as shall be made by the said Court. And if upon the circumstances of the case, the Court shall adjudge the person so charged to be the father of such bastard child, and that such child is likely to become chargeable to the County, they shall and may in their discretion take order for keeping such bastard child, by charging the father with the payment of money for the maintenance of such child, in such manner, and in such proportions as they shall think meet and convenient, and for such time as such child is likely to become chargeable to the County, and no longer. And the father of such child shall enter into a recognizance, with sufficient security before the said Court, in such sum as the said Court in their discretion shall think fit, payable to the Governor of this Commonwealth for the time being, and his successors, to observe and perform such order or orders of the Court as aforesaid. And if the father charged with the maintenance of such bastard child as aforesaid, shall make default and not pay the money so as aforesaid charged upon him by order of the said Court, to the Overseers of the poor, for the maintenance of such child, the Court before whom the recognizance was entered into, shall from time to time, upon the motion of the Overseers of the poor, or any one of them, enter up judgment and award execution for the money in such order or orders mentioned, as the same shall become due against the said father and his securities, their executors, or administrators; provided ten days notice be given to the parties against whom such motion is made, before the making thereof. And if the father of such child shall refuse to enter into recognizance as aforesaid, such father shall be committed by the said Court to the common Jail of the County, there to remain without bail or mainprize, until he shall enter into such recognizance as aforesaid, or until he shall discharge himself, by taking the oath of an insolvent debtor, and delivering in a schedule of his estate in manner directed by the laws for debtors in execution, (and which estate shall by order of the Court be applied towards indemnifying the County,) or until the Overseers of the poor shall consent to his discharge.

How the fathers of bastard children, born of free single women, may be compelled to support them.

XXIV. *PROVIDED always*, That it shall not be lawful for any Justice or Justices of the Peace, to send for any woman whatsoever, before she shall be delivered, in order to her being examined concerning her pregnancy, or to compel her to answer any questions relating thereto before her delivery.

No woman while pregnant, to be questioned by the justices concerning her pregnancy.

XXV. EVERY bastard child may be bound apprentice by the Overseers of the poor of the District for the time being wherein such child shall be born; every male until he attains

Bastard children may be

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bound apprentices by the overseers of the poor.

twenty-one years, and every female until she attains eighteen years, and no longer; and the master or mistress shall be subject to the same conditions as are prescribed in the case of an apprentice, by the Act, intituled, "*An Act to reduce into one, the several Acts concerning guardians, orphans, committees, infants, masters, and apprentices.*"

Vagrants how to be treated, when found within any county.

XXVI. THE Overseers of the poor, or any one of them, shall be, and are hereby empowered, upon discovering any vagrant or vagrants within their respective Districts, to make information thereof to any Justice of the Peace for the County, and to require a warrant for apprehending such vagrant or vagrants, to be brought before him, or some other Justice of the Peace for the said County; and if upon due examination, it shall appear to such Justice, that the person or persons are within the true description of a vagrant, as hereinafter mentioned, such Justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the Overseers of the poor of the District in which such vagrant or vagrants shall have been apprehended, to be employed in labor for any term not exceeding three months, and by the said Overseer of the poor hired out for the best wages that can be procured, to be applied to the use of the poor. And if any such vagrant or vagrants shall during such time of service, run away from the person so employing him or them, he, or they shall be dealt with in the same manner as other run-away servants.

Corporation courts to provide for their own poor

Any two magistrates thereof may remove poor persons to the places of their legal residence. Overseers of the poor of a county may remove to any corporation, any poor person belonging thereto.

XXVII. THE Corporation Courts of the several corporate towns within this Commonwealth, shall be, and they are hereby respectively empowered and required, to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the County; and any two Magistrates of any such Corporation Court, shall be, and are hereby empowered by warrant, under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the Overseers of the poor within the County, shall be, and they are hereby empowered, by warrant under the hands of any two of them, to cause to be removed into any corporate town, any poor person whose residence shall have been within the limits of such town for one year last past before such removal; except in both cases such poor persons only as have been lodged in any poor-house at any time during the last two years, who shall be respectively returned to, and maintained by the County or Town, according to their respective usual residence in either.

County and corporation courts may provide poor-houses.

XXVIII. THE several County and Corporation Courts, shall be, and they are hereby respectively empowered, whenever they shall judge it necessary, to provide or build a poor-house and work-house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such Corporation Court.

Corporations to levy annually, money for the support of their poor.

XXIX. AND the said Corporations shall be, and they are hereby respectively empowered and required, to levy and assess annually upon their respective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor; and also the charges which may be incurred in providing or building a poor-house and work-house, and in the government and management of the same.

Inhabitants thereof not freeholders in the county, not to vote for overseers of the poor.

XXX. THE inhabitants of any such corporate town not having a freehold estate in the County without the limits of the town, shall be disabled from voting in any election of the Overseers of the poor in the respective Counties, nor shall any inhabitant of any Corporate town be capable of serving as an Overseer of the poor in any County.

Vagrants how to be treated when found within a corporation.

XXXI. IT shall and may be lawful for any Magistrate of any such Corporation Court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination; and if upon such examination before two Magistrates of the Corporation Court it shall appear that the person or persons so apprehended are within the true description of a vagrant as hereinafter mentioned, the said two Magistrates shall be, and are hereby empowered, by warrant under their hands to commit such vagrant or vagrants to the work-house, there to be employed in labor for any term not exceeding three months; and if there be no work-house in such town, the said two Magistrates may, and they are hereby empowered to proceed with such vagrant or vagrants

in the ſame manner as the Overſeers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them.

XXXII. ANY able bodied man, who, not having wherewithal to maintain himſelf, ſhall be found loitering, and ſhall have a wife or children, without means for their ſubſiſtance, whereby they may become burthenſome to their County or town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himſelf, ſhall wander abroad, or be found loitering without betaking himſelf to ſome honeſt employment, or ſhall go about begging, ſhall be deemed and treated as a vagrant. Who ſhall be deemed vagrants.

XXXIII. SO much of the clauſe reſpecting vagrants or idle perſons not having wherewithal to maintain themſelves in the Act, intituled, "*An Act concerning ſeamen*," as is contrary to this Act, ſhall be, and is hereby repealed. Part of a former law concerning them repealed.

XXXIV. ALL the forfeitures and penalties inflicted by this Act, ſhall be, one half to the informer, and the other half to the uſe of the Overſeers of the poor for the County, to be applied by them towards the ſupport and maintenance of ſuch poor; unleſs where by this Act it is otherwiſe directed. Penalties and forfeitures how appropriated.

XXXV. AND for determining what ſhall be accounted a legal ſettlement within this Act, *It is hereby enacted and declared*, that no perſon ſhall be accounted an inhabitant ſo as to have gained a legal ſettlement, until ſuch perſon ſhall have been actually reſident in the County wherein he ſhall claim a legal ſettlement for the ſpace of one whole year. What ſhall be deemed a legal ſettlement.

XXXVI. ALL fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the uſe of the County, towards leſſening the levy for the ſupport of the poor, ſhall be collected, levied, accounted for, and paid by the Sheriffs of the Counties to the Overſeers of the poor in their ſeveral Counties reſpectively, in like manner, and ſubject to the ſame remedy and proceedings againſt them for default, as the collectors appointed by virtue of this Act are ſubject to, in default of collecting the levies impoſed by virtue thereof. Fines, &c. appropriated towards leſſening the county levies, how to be collected.

XXXVII. THE truſtees of any religious ſociety ſhall have full power and authority to proſecute all ſuits heretofore inſtituted, and now depending upon bond or otherwiſe, for any arrearages due to the different pariſhes within this Commonwealth. Arrearages due to pariſhes, how recoverable.

XXXVIII. ALL and every Act or Acts, clauſe or clauſes of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed. Repealing clauſe.

XXXIX. *PROVIDED nevertheleſs*, That all rights, remedies, fines, penalties, and forfeitures, incurred or accruing under any former Act, ſhall remain in the ſame condition as if this Act had not been made. *And provided alſo*, that nothing herein contained ſhall be conſtrued in any manner to alter or repeal one Act of General Aſſembly, paſſed on the twelfth day of *December*, one thouſad ſeven hundred and ninety-one, intituled, "*An Act concerning the poor of the Pariſh of Suffolk, in the County of Nanſemond.*" Proviſo.

XL. THIS Act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

C H A P. CIII.

An Act to reduce into one, the ſeveral Acts concerning Slaves, Free Negroes and Mulattoes.

[Paſſed the 17th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That no perſons ſhall henceforth be ſlaves within this Commonwealth, except ſuch as were ſo on the ſeventeenth day of *October*, in the year one thouſand ſeven hundred eighty-five, and the deſcendants of the females of them. Who ſhall be deemed ſlaves.

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When slaves hereafter imported shall be free.

II. SLAVES which shall hereafter be brought into this Commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free.

Penalties on the importers of slaves, and on the sellers and buyers.

III. EVERY person hereafter importing slaves into this Commonwealth, contrary to this Act, shall forfeit and pay the sum of two hundred dollars for every slave so imported; and every person selling or buying any such slaves, shall in like manner forfeit and pay the sum of one hundred dollars for every slave so sold or bought; one moiety of which forfeitures shall be to the use of the Commonwealth, and the other moiety to him or them that will sue for the same; to be recovered by action of debt or information in any Court of Record.

Exceptions in favor of emigrants from any of the *United States* taking a certain oath within a limited time.

IV. *PROVIDED*, That nothing in this Act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if within sixty days after such removal he or she shall take the following oath before some Justice of the Peace of this Commonwealth:

I, A. B. *do swear, that my removal into the State of* Virginia, *was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves, with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from* Africa, *or any of the* West-India *Islands, since the first day of* November, *one thousand seven hundred and seventy-eight.* So help me GOD.

And of citizens claiming slaves by descent, devise, or marriage, or being now the owners & removing them from another state, and travellers carrying them out again.

Nor to any persons claiming slaves by descent, marriage or devise; nor to any citizens of this Commonwealth, being now the actual owners of slaves within any of the United States and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again.

In what cases negroes or mulattoes may or may not be witnesses.

V. NO negro or mulatto shall be a witness, except in pleas of the Commonwealth against negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone shall be parties.

Slaves not to go from home, without passes.

VI. NO slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the peace, to be by his order punished with stripes, or not, in his discretion.

Coming on the plantations of others without leave from their masters, may be whipped.

VII. AND if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner, or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.

Negroes and mulattoes not to keep or carry arms.

VIII. NO negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizor for his own use; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offence.

Except those living on the frontiers licensed by the justices of the peace.

IX. *PROVIDED nevertheless*, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons, offensive or defensive, by license from a Justice of peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

Who shall be deemed mulattoes.

X. EVERY person other than a negro, of whose grand-fathers or grand-mothers any one is, or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so

every ſuch perſon who ſhall have one fourth part or more of negro blood, ſhall in like manner be deemed a mulatto.

XI. RIOTS, routs, unlawful aſſemblies, treſpaſſes and ſeditious ſpeeches by a ſlave or ſlaves, ſhall be puniſhed with ſtripes, at the diſcretion of a juſtice of the peace, and he who will, may apprehend and carry him, her, or them, before ſuch juſtice.

Puniſhment of ſlaves for riots, unlawful aſſemblies, ſeditious ſpeeches, &c.

XII. AND to prevent the inconveniences ariſing from the meetings of ſlaves, *Be it further enacted*, That if any maſter, miſtreſs, or overſeer of a family, ſhall knowingly permit or ſuffer any ſlave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overſeer of ſuch ſlave, he or ſhe ſo permitting, ſhall forfeit and pay three dollars for every ſuch offence; and every owner or overſeer of a plantation, who ſhall ſo permit or ſuffer more than five negroes or ſlaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, ſhall forfeit and pay one dollar for each negro or ſlave above that number; which ſaid ſeveral forfeitures ſhall be to the informer, and recoverable with coſts, before any juſtice of peace of the County or Corporation where ſuch offence ſhall be committed.

No perſon ſhall permit the ſlaves of others to remain on his plantation.

XIII. *PROVIDED always*, That nothing herein contained, ſhall be conſtrued to prohibit the negroes or ſlaves of one and the ſame owner, though ſeated at different quarters, from meeting, with their owner's or overſeer's leave, upon any plantation to ſuch owner belonging, nor to reſtrain the meeting of ſlaves on their owner's or overſeer's buſineſs at any public mill, ſo as ſuch meeting be not in the night time, nor on a *Sunday*, nor to prohibit their meeting on any other lawful occaſion, by licenſe in writing from their owner or overſeer, nor their going to church and attending divine ſervice on the Lord's day, or any other day of public worſhip.

Proviſo.

XIV. IF any white perſon, free negro, mulatto, or *Indian*, ſhall at any time be found in company with ſlaves at any unlawful meeting, or ſhall harbour or entertain any ſlave without the conſent of his or her owner, ſuch perſon being thereof convicted before any juſtice of the peace, ſhall forfeit and pay three dollars for every ſuch offence to the informer, recoverable with coſts before ſuch juſtice; or on failure of preſent payment, ſhall receive on his or her bare back twenty laſhes, well laid on, by order of the juſtice before whom ſuch conviction ſhall be.

Puniſhment of perſons preſent at unlawful meetings of ſlaves, or harbouring others ſlaves.

XV. AND every juſtice of peace upon his own knowledge of ſuch unlawful meeting, or information thereof to him made within ten days after, ſhall iſſue his warrant to apprehend the perſons ſo met or aſſembled, and cauſe them to be brought before himſelf, or any other juſtice of his County or Corporation, to be dealt with as this Act directs; and every juſtice failing herein, ſhall forfeit and pay eight dollars for every ſuch failure; and every ſheriff, or other officer, who ſhall fail upon knowledge or information of ſuch meeting, to endeavour to ſuppreſs the ſame, and bring the offenders before ſome juſtice of peace to receive due puniſhment, ſhall be liable to the like penalty of eight dollars; both which penalties ſhall be to the informer, and recoverable with coſts by action of debt in any County or Corporation Court; and every under ſheriff, ſerjeant, or conſtable, who upon knowledge or information of ſuch meeting, ſhall fail to perform his duty in ſuppreſſing the ſame, and apprehending the perſons ſo aſſembled, ſhall forfeit and pay four dollars for every ſuch failure to the informer, recoverable with coſts, before any juſtice of the County or Corporation wherein ſuch failure ſhall be.

Duty of juſtices, ſheriffs, and other officers in ſuppreſſing unlawful meetings.

XVI. NO perſon whatſoever ſhall buy, ſell, or receive of, to, or from a ſlave, any commodity whatſoever, without the leave or conſent of the maſter, owner, or overſeer of ſuch ſlave. And if any perſon ſhall preſume to deal with any ſlave without ſuch leave or conſent, he or ſhe ſo offending, ſhall forfeit and pay to the maſter or owner of ſuch ſlave, four times the value of the thing ſo bought, ſold, or received, to be recovered with coſts, by action upon the caſe in any court of record within this commonwealth, and ſhall alſo forfeit and pay the further ſum of twenty dollars to any perſon who will ſue for the ſame; to be recovered with coſts, by ſummons and petition in the ſame manner as other debts not exceeding twenty dollars, nor under five dollars, in any court of record, or receive on his or

Penalty for dealing with a ſlave without his maſter's leave.

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her bare back thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such summons and petition.

Punishment of a negro or mulatto lifting his hand against a white person.

XVII. IF any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending, shall, for every such offence, proved by the oath of the party before a justice of the peace of the County or Corporation, where such offence shall be committed, receive such punishment as the justice shall think proper, not exceeding thirty lashes, on his or her bare back, well laid on, except in those cases when it shall appear to such justice, that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defence.

In what cases the courts may direct slaves to be castrated.

XVIII. IT shall not be lawful for any County or Corporation Court to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment.

Owner not barred of his remedy where his slave is killed, or dies thro' negligence of the surgeon undertaking to dismember or cure him.

XIX. *PROVIDED always*, That nothing herein before contained shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of any surgeon or other person undertaking the dismembering or cure of any slave so punished by order of Court; but every owner shall and may have the same remedy for the death and loss of his or her slave or slaves, as he or she might have had if this Act had never been made.

Process against out-lying slaves.

XX. AND whereas many times slaves run-away and lie out hid and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth; *Be it therefore enacted*, that in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any two justices of the peace of the County wherein the slaves are supposed to lurk or do mischief, shall be, and are empowered and required by warrant, reciting their names and owners names if known, to direct the sheriff of the said County to take such power with him, as he shall think fit and necessary for the effectual apprehending such out-lying slave or slaves, and go in search of them, and upon their being apprehended to commit them to the jail of his County for further trial.

Conspiracy of slaves to rebel or murder, felony without clergy.

XXI. IF any negro or other slave shall at any time consult, advise, or conspire to rebel, or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof, in manner hereinafter directed, shall suffer death, and be utterly excluded all benefit of clergy.

Or to prepare or administer medicine.

XXII. IF any negro or other slave shall prepare, exhibit, or administer any medicine whatsoever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy.

Provisoes.

XXIII. *PROVIDED always*, That if it shall appear to the Court before whom such slave shall be tried, that the medicine was not prepared, exhibited, or administered with an ill intent, nor attended with any bad consequences, such slave shall be acquitted.

XXIV. *AND provided also*, That nothing herein contained shall be construed to extend to any slave or slaves administering medicines by his or her master's or mistress's order in his or her family, or the family of another, with the mutual consent of the owner of such slave, and the master or mistress of such family.

Penalty for suffering a slave to go at large and trade as a freeman.

XXV. IF any master or owner of a slave, shall license such slave to go at large, and trade as a freeman, the master or owner shall forfeit and pay the sum of thirty dollars for the use of the poor of the district where such slave shall be found going at large and trading as aforesaid, to be recovered by the Overseers of the poor, by action of debt, in any Court of record within this commonwealth; and if after conviction such slave shall be found so going at large and trading, the master or owner shall again be liable to the like penalty, to be recovered as aforesaid, and so as often after conviction, as such slave shall be found so going at large and trading.

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XXVI. IF any perſon ſhall permit or ſuffer his or her ſlave to go at large, or hire him or herſelf out, it ſhall be lawful for any perſon to apprehend and carry every ſuch ſlave before a juſtice of peace in the County or Corporation where apprehended, and if it ſhall appear to the juſtice that ſuch ſlave comes within the purview of this Act, he ſhall order him or her to the jail of the County or Corporation, there to be ſafely kept until the next Court, when, if it ſhall be made appear to the Court that the ſlave ſo ordered to jail hath been permitted or ſuffered to hire him or herſelf out, contrary to the meaning of this Act; it ſhall be lawful for the Court, and they are hereby required, to order the ſheriff or other officer of the County or Corporation, to ſell and diſpoſe of every ſuch ſlave for ready money, at the next Court held for the ſaid County or Corporation, notice being given by the ſheriff or other officer at the Courthouſe door, at leaſt twenty days before the ſaid ſale. Slaves ſuffered to go at large and hire themſelves out, may be apprehended and ſold.

XXVII. TWENTY-FIVE *per centum* upon the amount of the ſale of every ſlave ſo going at large or hiring out himſelf or herſelf, ſhall be applied by the Court ordering ſuch ſale towards leſſening the County levy, and the reſidue ſhall be paid by the ſheriff or other officer, after deducting five *per centum* for his trouble, and the jailor's fees, to the owner of ſuch ſlave. Proceeds of the ſales, how to be diſpoſed of.

XXVIII. IF any perſon ſhall hereafter be guilty of ſtealing or ſelling any free perſon for a ſlave knowing the ſaid perſons ſo ſold to be free, and thereof ſhall be lawfully convicted, the perſon ſo convicted ſhall ſuffer death without benefit of clergy. Felony without benefit of clergy to ſteal or ſell free perſons as ſlaves.

XXIX. IF any perſon or perſons ſhall ſteal any negro or mulatto whatſoever out of, or from the poſſeſſion of the owner or overſeer of ſuch ſlave, the perſon or perſons ſo offending, ſhall be, and are hereby declared to be felons, and ſhall ſuffer death without benefit of clergy. Or to ſteal any ſlave.

XXX. THE juſtices of every County or Corporation, ſhall be juſtices of *oyer* and *terminer* for trying ſlaves charged with treaſon or felony, which trials ſhall be by five at leaſt without juries upon legal evidence, at ſuch times as the ſheriffs or other officers ſhall appoint, not being leſs than five, nor more than ten days after the offenders ſhall have been committed to jail. No ſlave ſhall be condemned in any ſuch caſe, unleſs all of the juſtices ſitting upon his or her trial ſhall agree in opinion that the priſoner is guilty, after allowing him or her counſel in his or her defence, whoſe fee, amounting to five dollars, ſhall be paid by the owner of the ſlave: *Provided always*, that when judgment of death ſhall be paſſed upon any ſuch offender, there ſhall be thirty days at leaſt between the time of paſſing judgment and the day of execution, except in caſes of conſpiracy, inſurrection, or rebellion. How ſlaves ſhall be tried for criminal offences. To be allowed counſel. Not to be executed until the expiration of thirty days after conviction, except in certain caſes.

XXXI. THE value of a ſlave condemned to die, who ſhall ſuffer accordingly, or before execution of the ſentence periſh, to be eſtimated by the juſtices triers, ſhall be paid by the public to the owner. One being detained in ſlavery, and having commenced an action to aſſert his freedom, ſhall be proſecuted and tried for any ſuch crime in the ſame manner as a free man ought to be proſecuted and tried. The value of ſlaves condemned and executed, or dying before execution, to be paid by the public.

XXXII. NO perſon having intereſt in a ſlave ſhall ſit upon the trial of ſuch ſlave. None intereſted to ſit on trial of ſlaves.

XXXIII. AND for a declaration of what ſhall be deemed to be legal evidence in ſuch caſes, *It is further enacted*, that the Court may take for evidence the confeſſion of the offender, the oath of one or more credible witneſſes, or ſuch teſtimony of negroes or mulattoes, bond or free, with pregnant circumſtances, as to them ſhall ſeem convincing. What ſhall be legal evidence againſt them.

XXXIV. WHEN any negro or mulatto whatſoever ſhall be convicted of any offence, within the benefit of clergy, judgment of death ſhall not be given againſt him or her upon ſuch conviction, but he or ſhe ſhall be burnt in the hand by the jailor in open Court, and ſuffer ſuch other corporal puniſhment as the Court ſhall think fit to inflict, except where he or ſhe once had the benefit of this act, and in thoſe caſes ſuch negro or mulatto ſhall ſuffer death without benefit of clergy. How they ſhall be puniſhed for offences within the benefit of clergy.

XXXV. WHERE any negro or mulatto ſhall be found upon due proof made, to any County or Corporation Court of this commonwealth, to have given a falſe teſtimony, every Puniſhment of negroes or

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mulattoes for giving false testimony.

such offender shall without further trial, be ordered by the said Court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the Court shall think proper, not extending to life or limb; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro or mulatto, not being a christian, charge such evidence to declare the truth; which charge shall be in the words following, to wit:

A charge to such witnesses.

YOU are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post.

How slaves may be emancipated.

XXXVI. IT shall be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the County or Corporation Court by two witnesses, or acknowledged by the party in the Court of the County where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this Act.

But may be taken by execution, to satisfy certain debts of their former masters.

XXXVII. *PROVIDED nevertheless*, That all slaves so emancipated, shall be liable to be taken by execution, to satisfy any debt contracted by the person emancipating them before such emancipation is made.

Those of certain descriptions to be supported by their former masters.

XXXVIII. *PROVIDED always*, That all slaves so set free, not being in the judgment of the Court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the Court of the County or Corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose.

Copy of the instrument of emancipation to be delivered to the slave.

XXXIX. *PROVIDED also*, That every person by written instrument in his life-time, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument of emancipation, attested by the clerk of the Court of the County or Corporation, who shall be paid therefor by the person emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every person neglecting or refusing to deliver to any slave by him or her set free such copy, shall forfeit and pay thirty dollars; to be recovered with costs in any court of record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered.

Under a penalty.

Person emancipated travelling out of his county without such copy may be committed.

XL. IT shall be lawful for any justice of the peace to commit to the jail of his County or Corporation, any emancipated slave travelling out of the County of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the jailor's fees paid.

Failing to pay taxes & levies yearly, may be hired out.

XLI. IN case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the Court of the County or Corporation shall order the sheriff or serjeant to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate.

Reservation of the rights of others.

XLII. SAVING nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this Act had never been made.

XLIII. ALL negro and mulatto ſlaves in all courts of judicature within this commonwealth, ſhall be held, taken and adjudged to be perſonal eſtate. Slaves to be deemed perſonal eſtate.

XLIV. IF any widow poſſeſſed of a ſlave or ſlaves, as of the dower of her huſband, ſhall remove or voluntarily permit to be removed out of this commonwealth, ſuch ſlave or ſlaves, or any of their increaſe, without the conſent of him or her in reverſion, ſuch widow ſhall forfeit all and every ſuch ſlave or ſlaves, and all other the dower which ſhe holds of the endowment of her huſband's eſtate, unto the perſon or perſons that ſhall have the reverſion thereof; any law, cuſtom or uſage to the contrary notwithſtanding. Penalty on widow removing dower ſlaves out of the ſtate.

XLV. IF any widow poſſeſſed as aforeſaid, ſhall be married to a huſband, who ſhall remove, or voluntarily permit to be removed out of this commonwealth, any ſuch ſlave or ſlaves, or any of their increaſe, without the conſent of him or her in reverſion, in ſuch caſe it ſhall be lawful for him or her in reverſion to enter into, poſſeſs, and enjoy all the eſtate which ſuch huſband holdeth in right of his wife's dower, for and during the life of the ſaid huſband. On the huſband of any perſon ſo endowed.

XLVI. WHERE one or more ſlaves ſhall deſcend from a perſon dying inteſtate, and an equal diviſion thereof cannot be made in kind, on account of the nature of the property, it ſhall be lawful for the High Court of Chancery, or the Court of the County or Corporation, by which the adminiſtration to the eſtate of the inteſtate was granted, to direct the ſale of ſuch ſlave or ſlaves, and the diſtribution of the money ariſing therefrom, according to the rights of each claimant. *Provided always*, that each claimant ſhall be firſt duly ſummoned to ſhew cauſe if any he can againſt ſuch ſale. Slaves of an inteſtate may be ſold where an equal diviſion in kind cannot be made.

XLVII. NO gift or gifts of any ſlave or ſlaves, ſhall be good or ſufficient to paſs any eſtate in ſuch ſlave or ſlaves, to any perſon or perſons whatſoever, unleſs the ſame be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witneſſes at the leaſt, or acknowledged by the donor and recorded in the Diſtrict Court, or the Court of the County or Corporation where one of the parties lives, within eight months after the date of ſuch deed or writing. Gifts of ſlaves not valid except by will or deed, if the donor remains in poſſeſſion.

XLVIII. THIS act ſhall be conſtrued to extend only to gifts of ſlaves, whereof the donors have, notwithſtanding ſuch gifts, remained in the poſſeſſion, and not to gifts of ſuch ſlaves as have at any time come into the actual poſſeſſion of, and have remained with the donee, or ſome perſon claiming under ſuch donee.

XLIX. *PROVIDED always*, That nothing in this act contained, ſhall be conſtrued to alter any adjudication heretofore made, nor to affect the intereſt of any *bona fide* purchaſer, for a valuable conſideration, or creditor of the donor, before the donee hath been at leaſt three years in poſſeſſion of the ſlave or ſlaves under ſuch gift, nor in any manner to reſtrain or affect the operation of the act of limitation. Proviſo reſpecting former adjudications.

L. NO maſter of any ſhip, or any other veſſel, ſhall tranſport or carry any ſervant whatſoever, or any negro, mulatto, or other ſlave out of this commonwealth, without the conſent or permiſſion of the perſon or perſons to whom ſuch ſervant or ſlave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every ſervant, and three hundred dollars for every ſlave tranſported or carried hence, contrary to this act; one moiety to the commonwealth, and the other moiety to the owner of ſuch ſervant or ſlave, to be recovered with coſts, by action of debt or information, in any court of record of this commonwealth; and moreover, ſuch maſter ſhall be liable to the ſuit of the party grieved, at the common law, for his or her damages. Penalty on a maſter of a veſſel, carrying a ſervant or ſlave out of the ſtate, without the owners conſent.

LI. IN any action which ſhall be brought againſt the maſter of a ſhip or veſſel under this act, the court wherein the ſame ſhall be depending, may rule the defendant to give ſpecial bail, if they ſee cauſe, and ſhall not allow him to plead in bar, or give in evidence any act or ſtatute of limitation; any former or other law to the contrary, notwithſtanding. In ſuits therefor the defendants may be ruled to give bail.

LII. ALL and every act and acts, clauſes and parts of acts, within the purview of this act, ſhall be, and are hereby repealed: *Provided nevertheleſs*, That all rights, remedies, Repealing clauſe. Proviſo.

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fines, penalties, and forfeitures incurred or accrued under any former act, shall remain in the same condition as if this act had not been made.

Commencement of this act.

LIII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. CIV.

An Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.

[Passed the 22d of December, 1792.]

No persons shall be married without license or publication of banns.

I. BE *it enacted,* That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of banns according to the rubrick in the book of common prayer, if the parties so to be married shall be members of the Protestant Episcopal Church; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one shall not solemnize the matrimony, until he hath a certificate from the minister of the other parish, that the banns have been thrice published and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage, without such license or publication of banns as by this act required, he shall, for every such offence, be imprisoned one whole year without bail or mainprize, and shall also forfeit and pay fifteen hundred dollars. And if any minister shall go out of this government, and there join in marriage any person or persons belonging to this commonwealth, without such license or publication of banns, he shall be liable to the same penalties and forfeitures, as if such marriage had been by him celebrated within this commonwealth: *Provided always,* that where any parish or parishes have not a minister, the clerk or reader may publish banns, and if no objection be made, grant certificate thereof; which together with a certificate under the hand and seal of a justice of the peace for the said county, living in the parish where such publication shall be, certifying that the *feme* so to be joined, hath been an inhabitant of the said parish one month next before the date of such certificate, shall be sufficient for the minister to solemnize the rites of matrimony; and if any minister, clerk, or reader, shall grant or issue a false certificate, he shall suffer the imprisonment without bail, and pay the forfeiture aforesaid; and shall also be liable to be prosecuted and punished as in case of forgery. And that all or any of the offences aforesaid, may be prosecuted, tried and determined in any court of record within this commonwealth; which courts are hereby declared to have cognizance thereof, and may hear and determine the same, and award execution thereupon, according to the course of the common law. *And provided also,* that all publications of the banns of matrimony on the western waters of this commonwealth, shall be made on three several days, and not in less time than two weeks, in open and public assemblies, convened for religious worship, or other lawful purposes, within the bounds of the respective congregations or militia companies, in which the parties to be married severally reside; and for a certificate of such publication, the person making the same, may demand and receive fifty cents.

Penalty on ministers marrying without.

By whom the banns may be published where there is no minister.

Penalty for granting a false certificate of the banns being published.

How they may be published on the western waters.

Every ordained minister to celebrate the rites of matrimony according to the forms of his church.

II. IT shall and may be lawful for any ordained minister of the gospel in regular communion with any society of Christians, and every such minister is hereby authorised to celebrate the rites of matrimony according to the forms and customs of the church to which he belongs, between any persons within this state, between whom publication of banns shall have been duly made, or who shall produce a marriage license pursuant to the directions of this act, directed to any authorised minister of the gospel.

How they are to obtain testimonials of their authority to solemnize marriages.

III. *PROVIDED always,* That every such minister shall first produce credentials of his ordination, and also of his being in regular communion with the Christian society of which he is reputed a member, to the court of the county or corporation in which he resides; shall take the oath of allegiance to this commonwealth, and enter into bond, with two or more sufficient securities, in the sum of fifteen hundred dollars, payable to the Governor for the time being, and his successors, conditioned for the true and legal perform-

ance of this truſt: Whereupon ſuch court is hereby required to grant ſuch miniſter a teſtimonial in the following form, given under the hand and ſeal of the then ſitting judge or ſenior magiſtrate, and atteſted by the clerk, to wit:

THIS ſhall certify to all whom it may concern, that at a court held for , on the day of , in the year one thouſand hundred and A. B. produced credentials of his ordination, and alſo of his being in regular communion with the church; took the oath of allegiance to this commonwealth, and entered into bond as required by "An act to regulate the ſolemnization of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent forcible and ſtolen marriages; and for puniſhment of the crime of bigamy;" and that he is thereby authoriſed to celebrate the rites of matrimony agreeable to the forms and cuſtoms of the ſaid church, between any perſons to him regularly applying therefor within this ſtate. Given under my hand and ſeal, the day and year above written. — Form of the teſtimonial.

Every teſtimonial ſo obtained, ſhall be taken as good and ſufficient authority for celebrating the rites of matrimony according to law. *Provided nevertheleſs*, that no teſtimonial ſhall be granted to any miniſter who is itinerant, or who is not ſtated and ſettled within ſome pariſh, or with ſome Chriſtian congregation within this commonwealth. — Not to be granted to itinerant miniſters.

IV. *PROVIDED alſo*, If any authoriſed miniſter ſhall himſelf at any time decline, or be ejected from his office by the church to which he belongs; or if any of his ſecurities ſhall give him notice in writing, that they deſire to be releaſed from their ſurety ſhip, in either of theſe caſes, if he refuſes or neglects to give up his teſtimonials to the court from which they were obtained, any one of his ſecurities, without inſtituting a ſuit, may proceed againſt him as if they were ſpecial bail in an action of debt, until he is thereunto compelled, or gives them ſufficient caution for their indemnification. — When and how the ſecurities of an ordained miniſter may compel him to ſurrender his teſtimonial, or give them counter ſecurity.

V. IT ſhall and may be lawful for the people called Quakers and Menoniſts, or any other Chriſtian ſociety, that have adopted ſimilar regulations in their church, to ſolemnize their own marriages, or to be joined together as huſband and wife, by the mutual conſent of the parties openly publiſhed and declared before their congregations when convened for religious worſhip, in the manner, and agreeable to the regulations that have heretofore been practiſed in the reſpective ſocieties. — Quakers and Menoniſts, &c may ſolemnize marriages in the manner heretofore practiſed.

VI. AND whereas ſome magiſtrates and others, not authoriſed by law, have been induced by the want of miniſters to ſolemnize marriages,

VII. *Be it enacted*, That all ſuch marriages openly ſolemnized, and made at any time before the firſt day of *July*, one thouſand ſeven hundred and eighty-five, and which ſhall have been made, conſummated by the parties cohabiting together as huſband and wife, ſhall be taken, and they are hereby declared good and valid in law; and all and every perſon or perſons ſolemnizing ſuch marriages, are and ſhall be exonerated from all pains and penalties, as if they had been authoriſed miniſters. *Provided always*, and it is the true intent and meaning of this act, that nothing herein contained, ſhall extend or be conſtrued to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of conſanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a huſband or wife, then alive. — Certain marriages ſolemnized by magiſtrates, confirmed.

VIII. INSTEAD of the fees heretofore preſcribed by law, any authoriſed miniſter may demand and receive in current money for the celebration of every marriage, the ſum of one dollar. — Fee for a marriage.

IX. IF any miniſter ſhall refuſe to celebrate the rites of matrimony for the fees herein before allowed him, or ſhall exact other or greater fees; or if he or any pariſh reader or clerk, ſhall refuſe to publiſh the banns, or to certify the ſame when required for the fee aforeſaid, or exact any other or greater fee, every perſon ſo offending, ſhall forfeit and pay fifty dollars to the party grieved for every ſuch offence, recoverable in any court within this commonwealth, by action of debt or information. — Penalties, on miniſters, clerks, and readers, for refuſing to marry, publiſh the banns, or exacting more than legal fees.

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Marriages to be registered.

X. AND that a register of all marriages may be preserved; *Be it enacted*, that a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of Quakers, Menonists, and other societies that solemnize their marriages by the consent of the parties taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk, (as the case may be) transmitted to the clerk of the county or corporation, wherein the marriage is solemnized, within twelve months thereafter, to be entered on record by the clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The clerk shall be entitled to demand and receive of the party so married, the sum of twenty-five cents for recording such certificate, and giving the bearer a receipt therefor.

XI. EVERY minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the clerk of the court in due time, shall forfeit and pay the sum of sixty dollars; and if the clerk of any county shall fail to record such certificate, he shall forfeit and pay the like sum of sixty dollars, to be recovered with costs of suit, by the informer, in any court of record.

Manner of issuing marriage licenses.

XII. EVERY license for marriage shall be issued by the clerk of the court, of that county or corporation wherein the *feme* usually resides, in manner following, that is to say; the clerk shall take bond, with good security, for the sum of one hundred and fifty dollars, payable to the Governor of the commonwealth for the time being, and his successors, for the use of the commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every clerk failing herein, shall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of every such infant, shall be personally given before the said clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, one of which witnesses shall personally appear before the said clerk, and make oath, or affirmation (as the case may require) that he saw the father or guardian, whose name is annexed to such certificate, subscribe or acknowledge the same; and thereupon the clerk shall issue a license, and certify that bond is given, and every clerk is hereby authorised to administer such oath, or affirmation, as aforesaid; and if the parties or either of them be under the age aforesaid, he shall also certify the consent of the father or guardian, and the manner thereof, to any justice sworn in the commission of the peace, who is hereby authorised and required to sign and direct the same: and every license so obtained and signed, and no other whatsoever, is hereby declared to be a lawful license; and if any county or corporation court clerk shall in any other manner, issue or certify any marriage license, or if any person whatsoever shall presume to sign or direct such license, in other manner, or without such certificate, as is by this act required, every person so offending, shall be imprisoned one whole year without bail or mainprize, and shall forfeit and pay fifteen hundred dollars, recoverable in any court of record within this commonwealth.

Where either of the parties is an infant.

Penalty for issuing or signing a license contrary to this act.

Marriages within certain degrees to be annulled, and the parties separated.

XIII. IF any person whatsoever since the eighth day of *December*, one thousand seven hundred and eighty-eight, hath, or at any time hereafter, shall marry within the following degrees, that is to say: If the son hath married, or shall marry his mother or step-mother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son hath married, or shall marry the daughter of his father, begotten and born of his step-mother, or the son hath married or shall marry his aunt, being his father's or his mother's sister, or hath married or shall marry his uncle's wife, or the father hath married, or shall marry his son's wife, or the brother hath married, or shall marry his brother's wife, or any man hath married, or shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the High Court of Chancery; and the Attorney-General, upon any information made to him of any such marriage, shall, and may exhibit a bill to the Judge of the said court, against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine; and if the court see fit, may cause the parties to give bond with sufficient security, that they will not cohabit hereafter, in such penalty as the said court shall judge reasonable: *Provided always*, that no punishment by

Duty of the Attorney-General, when informed of any such marriage.

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fine ſhall be impoſed on any perſon until the ſame ſhall have been aſſeſſed by a jury, duly impannelled at the bar of the ſaid court. *And provided alſo*, that nothing herein contained, ſhall be conſtrued to render illegitimate, the iſſue of any marriage ſo annulled.

Felony to marry a ſecond time, the former huſband or wife being alive.

XIV. IF any perſon or perſons within this commonwealth, being married, or who ſhall hereafter marry, do at any time after the commencement of this act, marry any perſon or perſons, the former huſband or wife being alive, every ſuch offence ſhall be felony, and the perſon or perſons ſo offending, ſhall ſuffer death as in caſes of felony; and the party and parties ſo offending, ſhall receive ſuch and like proceeding, trial, and execution within this commonwealth, as if the offence had been committed in the county where ſuch perſon ſhall be taken or apprehended. *Provided*, that nothing herein contained, ſhall extend to any perſon or perſons whoſe huſband or wife ſhall be continually remaining beyond the ſeas by the ſpace of ſeven years together, or whoſe huſband or wife ſhall abſent him or herſelf, the one from the other, by the ſpace of ſeven years together, in any part within the United States of America or elſewhere, the one of them not knowing the other to be living within that time. *Provided alſo*, that nothing herein contained, ſhall extend to any perſon or perſons, that are or ſhall be at the time of ſuch marriage divorced by lawful authority, or to any perſon or perſons where the former marriage hath been, or hereafter ſhall be by lawful authority, declared to be void and of no effect, nor to any perſon or perſons for or by reaſon of any marriage had or made, or hereafter to be had or made within age of conſent. *And provided alſo*, that no attainder for the offence made felony by this act, ſhall make or work any corruption of blood, or forfeiture of eſtate whatſoever.

Proviſos.

In what caſe a *feme* of 12 and under 14 years ſhall forfeit her inheritance by marrying.

XV. IF any *feme ſole* of the age of twelve, and under fourteen years, ſhall marry any perſon contrary to the will or conſent of her father or guardian, and without legal publication of the banns, then the next of kin to ſuch *feme*, to whom the inheritance ſhould deſcend or come, ſhall have right to enter upon and take poſſeſſion of all lands, tenements, hereditaments, and other real eſtate whatſoever, which ſuch *feme*, at the time of her marriage had in poſſeſſion, remainder, or reverſion, and ſhall have, hold, occupy and enjoy the ſame to him or her, and the repreſentatives of his or her ſtock, with all the immunities and privileges thereto belonging, during the time of ſuch coverture; but after determination thereof, all ſuch eſtate, and the poſſeſſion, reverſions and remainders, rights, immunities, and privileges, ſhall immediately reveſt, be, and remain in the ſaid *feme*, and her heirs, other than her huſband; and ſhe and they, and every of them, may re-enter and take poſſeſſion thereof, as if this act had never been made.

Penalty for publiſhing banns, or marrying any ſervant without the maſter's conſent.

XVI. IF any miniſter, clerk, or reader, ſhall wittingly publiſh the banns of marriage between any ſervants by act of Aſſembly, indenture or cuſtom, or between any free perſon and ſuch ſervant, or if any miniſter ſhall knowingly marry any ſuch without certificate from the maſter or owner of every ſuch ſervant, that it is with his or her conſent, every miniſter, clerk, or reader, ſo offending, ſhall forfeit and pay two hundred and fifty dollars for every ſuch offence, recoverable in any court of record of this commonwealth; and every ſuch ſervant, ſo married without conſent of his or her maſter or owner, ſhall ſerve him or her, and his or her aſſigns, one whole year after all other time of ſervice is expired, or pay him or her twenty dollars; and every free perſon ſo marrying ſuch ſervant, ſhall pay the maſter or owner, twenty dollars for his or her own uſe, recoverable in any county or corporation court, with coſts, or ſhall well and faithfully ſerve ſuch maſter or owner one whole year in actual ſervice.

On ſervants marrying, & free perſons marrying them.

Puniſhment of white perſons marrying negroes or mulattoes.

XVII. AND for preventing white men and women intermarrying with negroes or mulattoes, *Be it enacted*, That whatſoever white man or woman, being free, ſhall intermarry with a negro or mulatto man or woman, bond or free, ſhall by judgment of the County Court, be committed to priſon, and there remain ſix months, without bail or mainprize; and ſhall forfeit and pay thirty dollars, to the uſe of the pariſh.

Penalty on miniſter marrying a white perſon to a negro or mulatto.

XVIII. NO miniſter or perſon whatſoever within this commonwealth, ſhall hereafter preſume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every ſuch marriage, two hundred and fifty dollars, one half to the uſe of the commonwealth, and the other half to the uſe of the informer; to be recovered with coſts, by action of debt, bill, plaint, or information, in any court of record within this commonwealth, wherein no eſſoin, protection or wager of law, ſhall be allowed.

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XIX. AND whereas women, as well maidens as widows, and wives having ſubſtances, ſome in goods moveable, and ſome in lands and tenements, and ſome being heirs apparent unto their anceſtors, for the lucre of ſuch ſubſtances, have been often times taken by miſdoers contrary to their will, and afterwards married to ſuch miſdoers, or to others by their conſent, or defiled: *Be it further enacted*, That whatſoever perſon or perſons ſhall take any woman ſo againſt her will unlawfully, that is to ſay, maid, widow, or wife; ſuch taking, and the procuring and abetting to the ſame, and alſo receiving wittingly the ſame woman ſo taken, againſt her will, ſhall be felony, and that ſuch miſdoers, takers, and procurers to the ſame, and receivers, knowing the ſaid offence in form aforeſaid, ſhall be reputed and judged as principal felons. *Provided always*, That this act ſhall not extend to any perſon taking any woman, only claiming her as his ward or bond-woman.

Felony to take any woman unlawfully againſt her will.

Proviſo.

XX. IF any perſon above the age of fourteen years, ſhall unlawfully take and convey away, or ſhall cauſe to be unlawfully taken or conveyed away, any maiden or woman-child unmarried, being within the age of ſixteen years, out of, or from the poſſeſſion, and againſt the will of the father or mother of ſuch maiden or woman-child, or out of, or from the poſſeſſion, and againſt the will of ſuch perſon or perſons as then ſhall happen to have by any lawful ways or means, the order, keeping, education or governance of any ſuch maiden or woman-child, and being thereof duly convicted, ſhall ſuffer impriſonment, without bail or mainprize, for any term not exceeding two years, as ſhall be adjudged againſt him.

Puniſhment for unlawfully taking a *feme ſole* under 16 years from her father, mother, or others having the care of her.

XXI. IF any perſon or perſons ſhall ſo take away, or cauſe to be taken away, as is aforeſaid, and deflower any ſuch maid or woman-child, as is aforeſaid, or ſhall, againſt the will or knowledge of the father of any ſuch maid or woman-child, if the father be in life, or againſt the will or knowledge of the mother of any ſuch maid or woman child, having the cuſtody and governance of ſuch child, if the father be dead, by ſecret letters, meſſages or otherwiſe, contract matrimony with any ſuch maiden or woman-child, every perſon ſo offending, and being thereof lawfully convicted, ſhall ſuffer impriſonment of his body, by the ſpace of five years, without bail or mainprize.

For deflowering or marrying any ſuch *feme ſo* unlawfully taken.

XXII. ALL the fines which ſhall or may be impoſed by virtue of ſo much of this act, as relates to inceſtuous marriages, ſhall be to the uſe of the poor of the county wherein the offence or offences ſhall be committed; and one moiety of all the forfeitures ariſing under this act, and not otherwiſe appropriated, ſhall be to the uſe of the commonwealth, and the other moiety to the party or parties who ſhall ſue for the ſame.

Appropriation of fines.

XXIII. ALL and every other act and acts, and clauſe or clauſes of acts, for ſo much thereof as relates to any thing within the purview of this act (except as herein after provided) are hereby repealed, and made void. *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal an act, intituled, "*An act concerning inceſtuous marriages*," or one other act, intituled, "*An act for the puniſhment of the crime of bigamy*," or one other act, intituled, "*An act againſt forcible and ſtolen marriages*," for ſo much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this act; but the ſaid recited acts, as to all ſuch offences ſhall be, and remain in full force in the ſame manner as if this act had never been made.

Repealing clauſe.

Proviſo.

XXIV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

C H A P. CV.

An Act to reduce into one, the ſeveral Acts concerning Mills, Mill-Dams, and other Obſtructions of Water-Courſes.

[Paſſed the 21ſt of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That when any perſon owning lands on one ſide of any water-courſe, the bed whereof belongeth to himſelf, or to the commonwealth, and deſiring to build a water griſt-mill on ſuch lands, and to erect a dam acroſs the ſame for working the ſaid mill, ſhall not himſelf have the fee ſimple property in the

Method of proceeding where the perſon deſirous of building a mill owns the land

lands on the opposite side thereof, against which he would abut his dam, he shall make application for a writ of *ad quod damnum* to the court of the county wherein the lands proposed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court shall thereupon order their clerk to issue such writ, to be directed to the sheriff, commanding him to summon and impannel twelve fit persons, to meet upon the lands so proposed for the abutment, on a certain day to be named by the court, and inserted in the said writ, of which notice shall be given by the sheriff to the proprietor or his agent, as before directed, if neither of them were present in court at the time of the order made.

only on one side of the stream.

Notice to be given to the proprietor of the opposite land.

II. THE freeholders taken, shall be charged by the said sheriff impartially and to the best of their skill and judgment, to view the said lands so proposed for an abutment, and to locate and circumscribe, by certain metes and bounds, one acre thereof, having due regard therein to the interests of both parties, and to appraise the same, according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion-house of any such proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree fish of passage and ordinary navigation will be obstructed; whether by any, and by what means such obstruction may be prevented; and whether, in their opinion the health of the neighbours will be annoyed by the stagnation of the waters.

Charge to the Jury.

III, THE inquest so made and sealed by the said jurors, together with the writ, shall be returned by the said sheriff to the succeeding court, who shall thereupon order summonses to be issued to the several persons, proprietors, or tenants of the lands so located or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build the said mill and dam.

On return of the inquest the persons concerned to be summoned.

IV. IN like manner, if the person proposing to build such mill and dam, shall have the fee-simple property in the lands on both sides the stream, yet application shall be made to the court of the County wherein the mill-house will stand, for a like writ; which writ shall be directed, executed and returned, as prescribed in the former case.

Where the lands on both sides belong to the person intending to build a mill.

V. IF on such inquest, or on other evidence, it shall appear to the court that the mansion-house of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they shall not give leave to build the said mill and dam; but if none of these injuries are like to ensue, they shall then proceed to consider whether, all circumstances weighed, it be reasonable that such leave should be given, and shall give, or not give it accordingly; and if given, they shall lay the party applying, under such conditions for preventing the obstruction, if any there will be, of fish of passage, and ordinary navigation, as to them shall seem right.

In what cases the court shall not give leave to build mills.

Where they may at their discretion.

VI. IF the party applying, obtain leave to build the said mill and dam, he shall, upon paying respectively to the several parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become seized in fee-simple of the said acre of land. But if he shall not within one year thereafter, begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use, or in case the said mill or dam be destroyed, if he shall not begin to rebuild it within one year after such destruction, and finish it within three years, the said acre of land shall revert to the former proprietor and his heirs; unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind; in which case, he shall be allowed the same terms for beginning and completing the said mill or dam, after such disability removed.

Party obtaining leave to pay the value of the land and the damages to the persons intitled thereto.

To begin and finish his mill within certain periods.

VII. THE inquest of the said Jurors, nevertheless, or opinion of the court, shall not bar any prosecution or action which any person would have had in law had this act never been made, other than for such injuries as were actually foreseen and estimated by the said jury.

Actions, for damages not estimated by the jury, not barred by the inquest.

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How owners of mills may obtain leave to raise their dams.

VIII. WHEN any owner of a mill heretofore or hereafter eſtabliſhed by law, may think it neceſſary to raiſe his dam, the Court of the County wherein the pond lieth, upon application to them, ſhall grant a ſecond writ of *ad quod damnum*, to value the additional damage done thereby, under the ſame rules and regulations as are herein before directed.

Duty of millers. Toll.

IX. ALL millers ſhall well and ſufficiently grind the grain brought to their mills, and in due turn as the ſame ſhall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part ſhall be ground into meal; and one ſixteenth part, and no more, of that, the remainder of which ſhall be ground into homminy or malt. And every miller or occupier of a mill, who ſhall not well and ſufficiently grind as aforeſaid, or not in due time as the ſame ſhall be brought, or take or exact more toll, ſhall, for every ſuch offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with coſts, before a juſtice of peace of the county where ſuch offence ſhall be committed. And where the miller ſhall be an indented ſervant, or ſlave, he ſhall, upon the firſt conviction for ſuch offence, receive thirty laſhes; and upon a ſecond conviction, fifty laſhes, on his bare back, well laid on, in lieu of the forfeiture aforeſaid; but upon a third conviction, his maſter or owner ſhall be liable to pay two dollars and fifty cents, and ſo for every ſuch offence by ſuch ſervant or ſlave afterwards committed: *Provided,* That every owner or occupier of a mill, may grind his or her own grain at any time.

Penalty for not grinding well and in due time or for taking more than legal toll.

Millers to keep ſealed meaſures and toll diſhes.

X. EVERY owner or occupier of a mill, ſhall keep therein ſealed meaſures of half buſhel and peck, and a toll diſh ſealed, and ſhall meaſure all grain by ſtrike meaſure, under the penalty of paying two dollars and fifty cents for every ſuch failure; recoverable with coſts, before a juſtice of the peace for the county wherein ſuch mill ſhall be, to the uſe of the informer. And if the miller be a ſlave or ſervant, his maſter or owner ſhall be liable to the penalty; or if the owner of ſuch mill ſhall not live within the ſame county, nor have any known attorney therein, the appearance of ſuch ſervant or ſlave before the juſtice to whom ſuch complaint ſhall be made, ſhall be ſufficient for him to proceed againſt the maſter or owner, but if he, or ſhe, his, or her known attorney lives in the county, his, or her appearance ſhall be required.

When they ſhall not keep hogs at large at their mills.

XI. NO owner or tenant of any mill, not having fifty acres of land adjoining thereto, ſhall keep any ſwine uninclosed at ſuch mill, on pain that the ſame ſhall be liable to be taken and converted to his own uſe by the proprietor or tenant of any adjacent lands, or by any other perſon authoriſed by them.

Their duty where public roads paſs over their dams.

XII. THE owner or occupier of every dam over which a public road paſſes, ſhall conſtantly keep ſuch dam in repair, at leaſt twelve feet wide at the top through the whole length thereof, and ſhall keep and maintain a bridge of the like breadth with ſtrong rails on each ſide thereof over the pier head, flood gates, or any waſte, cut through or round the dam, under the penalty of one dollar and ſixty-ſeven cents for every twenty-four hours failure, but where a mill dam ſhall be carried away, or deſtroyed by tempeſt, or accident, the owner or occupier thereof, ſhall not be liable to the ſaid penalties from thenceforth until one month after ſuch mill ſhall have been ſo repaired as to have ground one buſhel of grain.

Regulation reſpecting locks & ſlopes in the dams of mills already built.

XIII. WHERE the owner of any mill now ſtanding, or licenſed to be built, hath by any act of Aſſembly been compelled to make locks, ſlopes, or opening for navigation or the paſſage for fiſh, the ſame ſhall be continued under the conditions impoſed by ſuch act, and ſhall be deemed ſufficient in law, ſo long as the dam now ſtanding or building ſhall remain: But it ſhall not be lawful to rebuild ſuch dam in future, but on enquiry by jury into the obſtructions of fiſh and navigation, and the means of preventing the ſame, and the final order of the Court, to be applied for, and conducted in the manner before directed in other caſes.

Navigation, or the paſſage of fiſh not to be obſtructed by dams, hedges, &c. without leave as in the caſe of mills.

XIV. IT ſhall not be lawful for any perſon to erect or fix on any water courſe, any dam, hedge, weir, ſeine, drag, or other ſtoppage, whereby navigation or the paſſage of fiſh may be obſtructed, ſave only for the purpoſe of working ſome machine or engine, uſeful to the public, in which caſes the ſame proceedings ſhall be had, as are before directed in the caſe of a water griſt mill, or for the purpoſe of a water griſt mill, before provided for. And where any ſuch are now ſtanding, or ſhall hereafter be erected or fixed, the

owner or tenant of the lands adjacent thereto (whether the ſame were erected or fixed by himſelf or another) ſhall cauſe it to be abated. And whoſo offendeth herein, ſhall be deemed guilty of a nuiſance.

XV. AND whereas many of the rivers and creeks of this commonwealth are ſtopped and choaked by ſtones, trees, ſtumps and rubbiſh therein, and by hedges, weirs, or ſtone ſtops, in or acroſs the ſame, whereby the paſſage of boats and other veſſels, and of fiſh, is obſtructed, to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce; *Be it therefore enacted*, that where any river or creek ſhall be in one county only, the court of ſuch county ſhall be, and is hereby empowered and required, to contract and agree with any perſon or perſons they ſhall think fit to clear the ſame, as far as it ſhall be paſſable for loaded boats, if ſuch obſtructions were removed, and to levy ſo much money in their county levy as ſhall be ſufficient to diſcharge ſuch agreement; and where any river or creek in this commonwealth ſhall divide two or more counties, the courts of every ſuch county ſhall join in ſuch agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, that nothing herein contained ſhall be conſtrued to oblige any county court or courts to contract for removing rocks, or ſuch obſtructions, in any river or creek, as cannot be removed without the force of gun-powder: *And provided alſo*, that the courts of the counties adjoining to the rivers *Meherrin*, *Nottoway*, *Roanoke* and *Rappahannock*, above the falls thereof, ſhall not be obliged by this act to contract for the clearing the ſaid rivers or any of them.

County courts may contract for clearing rivers and creeks of certain obſtructions to navigation, &c.

Not to extend to obſtructions removable only by the force of gunpowder. Certain rivers excepted.

XVI. WHOSOEVER ſhall fell any tree or trees, or cauſe the ſame to be felled into any river or creek, or any run whereon there is or ſhall be erected any public bridge or bridges within this commonwealth, and ſhall not cut and carry away the ſame within the ſpace of forty-eight hours after ſuch felling, ſhall forfeit and pay two dollars and fifty cents for every tree ſo felled and not cut and carried away, to be recovered before a juſtice of the peace of the county where ſuch offence ſhall be committed, and ſhall be to the uſe of the informer.

Penalty for felling trees into rivers or creeks.

XVII. ALL and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act.

Repealing clauſe. Proviſo.

XVIII. THIS act ſhall commence and be in force, from the paſſing thereof.

Commencement of this act.

C H A P. CVI.

An Act to reduce into one, the ſeveral Acts for regulating the Inoculation of the Small-Pox within this Commonwealth.

[Paſſed the 21ſt of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That if any perſon or perſons whatſoever, ſhall wilfully or deſignedly preſume to import or bring into this commonwealth, from any country or place whatever, the ſmall-pox, or any variolous or infectious matter of the ſaid diſtemper, with a purpoſe to inoculate any perſon or perſons whatever, or by any means to propagate the ſaid diſtemper within this commonwealth, he or ſhe ſo offending, ſhall forfeit and pay the ſum of three thouſand dollars for every offence ſo committed; one moiety whereof ſhall be to the informer, and the other moiety to the overſeers of the poor of the county, where the offence ſhall be committed, for the uſe of the poor of the ſaid county, to be recovered with coſts, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

Penalty for importing matter to inoculate for the ſmall-pox.

II. BUT for as much as the inoculation for the ſmall-pox may, under peculiar circumſtances, be not only a prudent, but neceſſary means of ſecuring thoſe who are unavoid-

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ably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations.

License to inoculate may be granted by the magistrates of the county or corporation.

III. *BE it therefore enacted,* That if any person shall think him or herself, his, or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the sheriff of any county, or to the mayor or chief magistrate of any city or corporation; and the said sheriff, mayor, or chief magistrate shall immediately, and without loss of time, summon all the acting magistrates of the said county, city, or borough, to meet at the most convenient time and place, in the said county, city, or borough, and the said magistrates, or such of them as shall be present, being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the house-keepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small-pox, either in his, or her own house, or at any other place.

Or by the house-keepers residing within a certain distance.

Under certain rules and regulations for confining the infection, and penalties for transgressing them.

IV. NO patient in the small-pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small-pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and cloaths, as to be perfectly free from infection, under the penalty of seven dollars for every offence, to be recovered, if committed by a married woman, from her husband; if an infant, from the parent or guardian; and if a servant, or slave, from the master or mistress.

V. EVERY physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest public road, or other most notorious adjacent place, giving information, that the small-pox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of seven dollars for every day that the same shall be omitted or neglected, to be paid by the physician or doctor, if the offence shall be committed when he is present, or by the master, mistress, manager, or principal person of the family, respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person undertaking inoculation at any public place, or hospital, for the reception of patients, shall, before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and cloaths are sufficiently cleansed, and shall give such patients, respectively, a certificate under his hand, that in his opinion they are free from all danger of spreading the infection, under the penalty of ten dollars for every offence; and every person wilfully giving a false certificate, shall be subject to the penalty of thirty dollars.

VI. IF any person who hath not had the small-pox, other than those who have been, or intend to be inoculated, shall go into any house where the small-pox then is, or intermix with the patients and return from thence, any justice of the peace for the county or corporation, on due proof thereof, may by warrant cause such person to be conveyed to the next hospital where the small-pox is, there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same, and if such person be not able to pay the necessary expences, the same shall be paid by the county.

Expences incurred in checking the distemper or carrying on inoculation, how to be defrayed.

VII. AND whereas checking the progress of the said distemper, where it may accidentally break out, or the regulations which may be established for carrying on inoculation, may be attended with some expense, it shall and may be lawful for the justices of every county, at the time of laying their levy, and for the mayor, recorder, aldermen, and common-council of any city or borough, at such time as they shall judge most convenient, to levy on the tithable persons in their said county, city, or borough, so much money as will

be ſufficient to defray the expences neceſſarily incurred for the purpoſes aforeſaid, in any ſuch county, city, or borough.

VIII. IF any ſheriff, mayor, or chief magiſtrate, ſhall, upon application to him made, in manner aforeſaid, refuſe, or unreaſonably delay to ſummon the magiſtrates of any county, city, or borough, for the purpoſe aforeſaid, or if any magiſtrate ſo ſummoned, ſhall refuſe or neglect to attend, according to ſuch ſummons, every ſuch ſheriff, mayor, or chief magiſtrate, ſhall forfeit the ſum of three hundred dollars upon his refuſing or neglecting to give ſuch notice without reaſonable excuſe; and every other magiſtrate ſo refuſing or neglecting, without reaſonable excuſe, ſhall alſo forfeit and pay the ſum of twenty dollars to the perſon aggrieved.

Penalty on the ſheriffs and magiſtrates for neglect of the duties hereby enjoined.

IX. IF any perſon or perſons ſhall inoculate or procure inoculation for the ſmall-pox, to be performed within this commonwealth, without obtaining a licenſe or conſent to inoculate in the manner herein before directed, or ſhall not conform to the rules and regulations preſcribed by ſuch juſtices, he, ſhe, or they ſhall forfeit and pay reſpectively, for every ſuch offence, the ſum of three hundred dollars; one moiety whereof ſhall be to the informer, and the other moiety to the overſeers of the poor of the county wherein ſuch offence ſhall be committed, for the uſe of the poor of the ſaid county; to be recovered with coſts, by action of debt, bill, plaint, or information, in any court of record within this commonwealth; and moreover it ſhall and may be lawful for any juſtice of the peace, upon information given to him upon oath, to iſſue his warrant againſt any perſon ſo offending, and upon ſufficient proof before him made, to cauſe ſuch offender to give ſecurity in ſuch reaſonable penalty as ſuch juſtice ſhall think fit, for his or her good behaviour, and upon failure to give ſuch ſecurity, to commit him or her to the jail of his county or corporation, there to be confined until ſuch ſecurity be given: *Provided nevertheleſs*, that no perſon ſhall incur the penalties impoſed by this act for inoculating his family without conforming to the rules herein preſcribed, if any perſon of ſuch family ſhall have before taken the infection in the natural way; nor ſhall any patient in the ſmall-pox be compelled to remove from his uſual place of reſidence.

Penalty for inoculating without licenſe, &c.

Unleſs ſome perſon of the family has caught the infection in the natural way.

X. EVERY perſon wilfully endeavouring to ſpread or propagate the ſmall-pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in ſpecial caſes, ſhall be ſubject to the penalty of fifteen hundred dollars, or ſuffer ſix months impriſonment, without bail or mainprize.

Penalty for propagating the ſmall pox contrary to this act.

XI. ALL the penalties inflicted by this act, may be recovered with coſts, by action of debt, or information, in any court of record, where the ſum exceeds twenty dollars, and where it is under, or amounts to that ſum only, by petition in the court of the county where the offence ſhall be committed; and where they are not hereby appropriated otherwiſe, ſhall be one half to the informer, and the other half to the commonwealth, or the whole to the commonwealth, where proſecution ſhall be firſt inſtituted on the public behalf alone.

Penalties, how recoverable, and how appropriated.

XII. ALL acts, and ſo much of any act of General Aſſembly, as contains any thing contrary to this act, is hereby repealed.

Repealing clauſe.

XIII. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

CHAP. CVII.

An Act for regulating Ordinaries, and reſtraint of Tippling Houſes.

[Paſſed the 26th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That every perſon intending to ſet up or keep an ordinary, or houſe of public entertainment, ſhall firſt petition the court of that county wherein ſuch ordinary is intended to be, and obtain a licenſe for keeping the ſame; and the juſtices of the court to whom ſuch petition ſhall be exhibited, ſhall there-

Ordinary licenſes how to be obtained.

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upon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors to the prejudice of the neighbouring inhabitants; and if such petition shall appear reasonable, such court is hereby authorised, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence till the next court held for the said county, and no longer; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit.

Ordinary keeper to give bond and security.

II. *PROVIDED always*, That before issuing such license, the petitioner shall enter into bond, with sufficient security, to the effect following:

KNOW all men, by these presents, That we A. B. *and* C. D. *are held and firmly bound to , Governor of the commonwealth of* Virginia, *in the sum of one hundred and fifty dollars; to which payment, well and truly to be made, to the said , or his successors, we bind ourselves, and every of us, our and every of our heirs, executors and administrators, jointly and severally, by these presents. Witness our hands and seals, this day of , in the year one thousand hundred and .*

Condition of the bond.

THE condition of the above obligation is such, that whereas the above-bound A. B. *hath obtained a license to keep an ordinary at , in the county of , if therefore the said* A. B. *doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet for travellers, and stableage, fodder, and provender, or pasturage and provender, as the season shall require, for their horses, for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of , and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void, otherwise to remain in full force.*

Rates for liquors, diet, &c. to be fixed by the county courts;

and tables thereof to be set up by the ordinary keepers.

Penalty on them for taking more than the legal rates.

III. THE justices of every county court within this commonwealth shall, at their *March* court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, provender, stableage, fodder and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, under the penalty of fifteen dollars, on every member of such court so failing; and every ordinary keeper shall within one month after the rates so set, or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room in his tavern, to be placed not more than six feet above the floor, and so long as he neglects this after the month, he shall have no right to demand any price for a rated article, and moreover be subject to a penalty of seven dollars. And if any ordinary keeper shall demand and take greater price for any drink, diet, lodging, provender, stableage, fodder, or pasturage, than by such rates shall be allowed, he or she so offending, shall forfeit and pay twelve dollars for every such offence to the informer, recoverable with costs before a justice of the peace of the county wherein such ordinary shall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not setting up a table of the same, shall be recoverable by action of debt or information, by any person who will sue for the same, in any court of record within this commonwealth.

Penalty for opening tavern or retailing liquors without license for the first offence.

IV. IF any person without such license, shall open a tavern, or sell by retail, wine, beer, cyder, rum or brandy, or other spirituous liquors, or a mixture thereof, to be drank in, or at the place where it shall be sold, or in any booth, arbor, or stall, such offence shall be deemed a breach of good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of thirty dollars, to be applied towards lessening the county levy.

For the second offence.

V. EVERY person having been convicted of keeping a tippling house, or retailing liquors as aforesaid, who shall afterwards be guilty of the same offence, and be thereof again convicted, shall by the court before whom such conviction shall be had, be committed to prison, there to remain for and during the term of six months, without bail or mainprize.

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This act to be given in charge to grand juries in county courts.

VI. THE preſiding juſtice preſent ſhall give this act in ſpecial charge to the grand jury of the county, at every grand jury court; and whenever any proſecution or ſuit ſhall be inſtituted thereupon, the court before whom the ſame ſhall be depending, ſhall proceed to ſpeedy trial thereof, out of courſe, and without delay.

And to be put in execution by every juſtice of the peace.

VII. AND every juſtice of the peace is hereby required and ſtrictly enjoined to cauſe this act to be put in ſtrict execution within his county. And if any juſtice, either from information, his own knowledge, or other juſt cauſe, ſhall ſuſpect any perſon of keeping a tippling houſe, or retailing liquors, as aforeſaid, he is hereby empowered and required, to ſummon ſuch perſon to appear before him, together with ſuch witneſſes as he may judge neceſſary; and upon the perſon's appearing, or failing to appear, if the juſtice, upon examining the witneſſes upon oath, ſhall find ſufficient cauſe, he may, and is hereby required to direct the attorney for the commonwealth in ſuch county, to inſtitute a proſecution againſt ſuch perſon on the public behalf, which ſuch attorney is hereby required to inſtitute accordingly. And ſuch juſtice may alſo cauſe the perſon ſo ſuſpected, to give bond with two ſufficient ſecurities, for his or her good behaviour, for the term of one year, the principal in the ſum of one hundred and fifty dollars, and the ſecurities in the ſum of ſeventy-five dollars each; and upon failing to give ſuch bond and ſecurity within three days, after being thereto required, ſuch perſon may be committed to the jail of the county, there to remain until he or ſhe ſhall give bond and ſecurity accordingly; and if ſuch perſon ſhall afterwards during the ſaid term, keep a tippling houſe, or retail liquors, as aforeſaid, the ſame ſhall be, and is hereby declared a breach of the good behaviour, and of the condition of ſuch bond.

Proviſo in favor of brewers and diſtillers.

VIII. *PROVIDED always*, That nothing in this act ſhall extend or be conſtrued to prohibit any perſon or perſons from retailing ſuch liquors as ſhall actually have been made from the produce of ſuch perſon's own eſtate, or brewed or diſtilled by him, her, or them, or thoſe in his, her, or their employ; nor to prohibit any merchant or perſon keeping ſtore for the ſale of merchandize, from retailing liquors, ſo as ſuch liquors be not drank, or intended to be drank at the houſe or plantation where the ſame ſhall be ſold. And in caſe any diſpute ſhall ariſe as to the making ſuch liquors, the burthen of proof ſhall be on the defendant.

Penalties on ordinary keepers ſuffering gaming in their houſes.

IX. IF gueſts or others play at any game contrary to law in a tavern, or in any outhouſe, or under any booth, arbor, or other place upon the meſſuage, or tenement in poſſeſſion of any tavern keeper, and the keeper thereof ſhall not endeavour to hinder them, and if they perſiſt, to give information of the offence, and to give in the names of the offenders, within one month thereafter, to the court, or to two juſtices of the peace, his licenſe ſhall be revoked by the court, and he ſhall pay to the informer twenty dollars, unleſs being ſummoned to ſhew cauſe to the contrary, he appear and prove ſuch facts, as induce them to believe, not only he did not know of, but moreover, that he had no reaſon to ſuſpect ſuch playing.

Or tippling on the ſabbath day.

X. IF the keeper of any ordinary or tavern, ſhall in his houſe, ſuffer any perſon to tipple or drink more than is neceſſary, on the Lord's day, or on any other day ſet apart by public authority for religious worſhip, or ſhall harbour or entertain any ſeaman, contrary to law, ſuch tavern keeper ſhall be deprived of his licenſe in the ſame manner.

Tavern keepers not to ſell liquor on credit to ſailors.

XI. IF any keeper of a tavern or ordinary, ſhall ſell drink to any ſailor in actual pay on board any ſhip, on credit, he or ſhe ſhall not recover any money, tobacco, or other commodity, for liquors ſo ſold upon credit, but every ſuch debt, obligation or ſpecialty, ſhall be void: and if any warrant, petition, writ, or bill be proſecuted or exhibited againſt any perſon for the ſame, ſuch warrant, petition, writ or bill, ſhall be diſmiſſed, and the defendant ſhall have double coſts.

Penalty for ſo doing, or for harbouring ſailors.

XII. IF any ordinary keeper ſhall ſell any liquor whatſoever upon credit, to any ſailor in actual pay on board any ſhip or other veſſel, or ſhall harbour, entertain, or ſell drink to any ſuch ſailor, without licenſe from the maſter of the veſſel or ſhip, to which the ſailor belongs, ſuch ordinary keeper ſhall for every ſuch offence, forfeit and pay two dollars to the maſter of the ſhip or veſſel, recoverable with coſts, before any juſtice of the peace of the county, wherein ſuch ordinary keeper lives.

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In what cases debts for retailed liquors shall be void.

XIII. NO keeper of a tavern shall recover more than five dollars for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank, in the place where it is kept; and a written contract, or bond, or other specialty for payment, delivery, or security of money or other thing, for performance of any work or service, whereof the whole, or any part, shall have become due for liquors so sold, shall be void.

Corporation courts to have the sole power of granting licenses within their jurisdictions.

XIV. THE several corporation courts within this commonwealth, shall have the sole power of granting or revoking licenses to ordinary keepers, within their respective jurisdictions: *Provided*, That such licenses be granted in the manner above directed by this act.

Penalties, how recoverable and appropriated.

XV. ALL the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs, in any court of record within this commonwealth.

Proviso.

XVI. EVERY act of Assembly, concerning any thing within the purview of this act, shall be, and the same is hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

XVII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CVIII.

An Act reducing into one, the several Acts for unlading Ballast, and Burial of Dead Bodies from on board Ships; and prohibiting the putting Sick or disabled Seamen and Servants on Shore, without providing for their Maintenance.

[Passed the 23d of December, 1792.]

Ballast masters how to be appointed.

I. BE *it enacted by the General Assembly*, That the court of every county or corporation adjacent to any navigable river or creek, shall from time to time as vacancies happen, appoint one or more ballast masters, residing near the places where vessels usually ride in such river or creek, to be overseers and directors of the delivery and unloading of ballast from on board any ship or vessel, within a certain district to be by them ascertained.

How qualified

II. EVERY person so appointed, shall make oath in open court, that he will when required, diligently attend the delivery of ballast from on board any vessel within his district, and will not knowingly permit the same, or any part thereof, to be cast into the water where navigable, but will direct, and to the best of his power, cause all such ballast to be brought and laid on shore at some convenient place or places, where it may not obstruct navigation, nor be washed into the channel; and, that he will truly and faithfully execute his office, without favor, partiality, or malice.

Penalty for failing or refusing to qualify and act.

III. IF any person so appointed, and having notice thereof by an attested copy of such appointment, issued by the clerk, and served by the sheriff or other officer, which notice the clerk is hereby directed immediately to issue, and the sheriff or other officer to serve, and thereupon make due return to the next court, shall fail to appear before the said court, unless hindered by sickness or other legal disability, or being there, shall refuse to be sworn, he shall be fined sixty dollars; and the court shall upon every such failure or refusal, or in case of death, removal, or other legal disability of any person so appointed, proceed to appoint another in his room.

Vacancies, how to be supplied.

Their duties.

IV. EVERY ballast master so appointed, upon receiving notice from the master or chief officer on board of any ship or vessel within his district, that ballast is to be discharged from such vessel, shall go on board the same, and attend until the whole ballast is delivered, which he shall see brought on shore, and laid at some convenient place near the vessel, where it may not obstruct navigation, nor be washed into the channel, shall thereupon give

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ſuch maſter or officer, a certificate that the ballaſt has been duly unladen from on board ſuch ſhip or veſſel, and ſhall receive from him for the ſervices ſo performed, eighty-three cents *per* day.

V. EVERY ballaſt maſter failing to do his duty according to this act, ſhall forfeit ſixty dollars for each default. Penalty for neglect.

VI. EVERY maſter or chief officer of any ſhip or veſſel having ballaſt to unlade, ſhall give notice in writing, of the time he propoſes to land the ſame, to the ballaſt maſter of the diſtrict; and if he ſhall preſume to land or caſt overboard any ballaſt therefrom, without giving ſuch notice, or contrary to the orders he ſhall receive from the ballaſt maſter of the diſtrict, he ſhall forfeit one hundred and fifty dollars for every ſuch offence or failure. Duty of maſters of veſſels intending to unlade ballaſt.

VII. WHEN any perſon ſhall die on board of any ſhip or veſſel within this commonwealth, the maſter thereof ſhall cauſe the dead body to be brought on ſhore, and there buried, at leaſt four feet deep above high-water mark, or be ſubject to the like penalty of one hundred and fifty dollars. Dead bodies from on board ſhips how to be buried.

VIII. IF any ſuit be brought for the penalties in this act before contained, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that bail is required. Defendants in ſuits for penalties to be held to bail.

IX. IF any maſter or commander of any ſhip or veſſel, ſhall diſcharge, or cauſe to be put on ſhore, any ſick or diſabled ſailor or ſailors, belonging to his ſhip or veſſel, not entitled to his or their diſcharge by the contract between them, or any ſervant, without taking due care for his or their maintenance and cure, he ſhall forfeit and pay ſixty dollars to the overſeers of the poor of the county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall be put on ſhore, to be recovered with coſts, by action of debt or information, in any county or corporation court, and applied towards leſſening the poor rates of the county or corporation; and he ſhall alſo be liable to the action of the overſeers of the poor of that or any other county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall become chargeable, for all expenſes of maintenance and cure; and in any ſuch action or actions, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that good bail is required: *Provided*, That the ſaid overſeers of the poor, or either of them, ſhall make affidavit of the cauſe of action, before a magiſtrate, which ſhall be certified to the clerk of the court who ſhall iſſue the writ. Penalty on maſters of veſſels putting ſick or diſabled ſailors on ſhore. Defendants to be held to bail.

X. ALL and every act, clauſe and clauſes of acts, within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing in this act contained, ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this act. Repealing clauſe. Proviſo.

XI. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

C H A P. CIX.

An Act to prevent the malicious burning any Houſe; for taking away Clergy from certain Offences; and for puniſhing Acceſſaries to Felonies; and Receivers of ſtolen Goods.

[Paſſed the 26th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That all and every perſon and perſons, that ſhall at any time, either in the night or the day, maliciouſly, unlawfully and willingly, burn any houſe or houſes whatſoever, or ſhall comfort, aid, abet, aſſiſt, counſel, hire, or command, any perſon or perſons to commit any of the ſaid offences, being thereof convicted or attainted, or being indicted thereof, ſhall ſtand mute, or will not anſwer directly to the indictment, or ſhall peremptorily challenge above the number of Felony without benefit of clergy to burn any houſe.

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twenty persons returned to be of the jury, shall be adjudged a felon, and shall suffer death as in case of felony, and shall not have the benefit of his, her, or their clergy.

Benefit of clergy not to be allowed to those who feloniously break any store or warehouse and take therefrom money, or goods of the value of four dollars.

II. ALL and every person and persons, that shall at any time, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods or chattels, wares or merchandises, of the value of four dollars or more, although the owner of such goods, or any other person or persons, be, or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy.

When accessaries in felonies shall be prosecuted in the same manner as if the principals had been attainted.

III. IF any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessary, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainder; and every such accessary shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted.

Receivers of stolen goods may be punished as for misdemeanors although the principals be not convicted.

IV. IT shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted.

Repealing clause.

Proviso.

V. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as herein after provided) shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

VI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CX.

An Act declaring who shall be deemed Citizens of this Commonwealth, and pointing out the Mode by which the Right of Citizenship may be acquired or relinquished.

[Passed the 23d of December, 1792.]

Who shall be deemed citizens.

I. BE *it enacted by the General Assembly*, That all free persons born within the territory of this commonwealth, all persons not being natives, who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner hereinafter mentioned.

How emigrants, other than alien enemies, may become citizens.

II. AND that all persons, other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being Quakers or Menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of *October* annually, transmit to the Executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept

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for that purpose, for which he shall receive the fee of one dollar) shall be entitled to all the rights, privileges, and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations, aforesaid; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of three hundred dollars therein.

Exception as to holding offices.

III. *PROVIDED always*, That no person having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

IV. AND for the encouragement of useful artizans, mechanics, and handicraft tradesmen, to migrate into this commonwealth, *Be it further enacted*, that all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto; and shall moreover be exempted from all taxes whatsoever except the land tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

Artizans, mechanics, &c. migrating to this state, exempted from taxes for a certain time.

V. WHENSOEVER any citizen of this commonwealth, shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them, or two of them proved in the General court, any district court, or the court of the county or corporation where he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

How a citizen may expatriate himself.

VI. ALL persons who having accepted a military commission from the United States, or any of them, or who having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States, on the nineteenth day of *April*, in the year one thousand seven hundred and seventy-five, or at any time since, have at any time during the late war, voluntarily joined themselves to the fleets or armies of the king of *Great-Britain*, or have voluntarily borne arms against the United States, or any of them, in any garrison, port or fortification, or other place whatsoever, within their territories, or on their coasts; or have been owner, or part owner of any privateer, or other armed vessel cruizing against the said United States, or any of them; and all and every person and persons, who at any time acted as a member of the board, commonly called the board of refugee commissioners, at New-York, or under the authority, or by the direction of the said board, shall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties and disabilities of this act, although they have been heretofore, or shall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the same, as if they had not taken the said oaths.

Certain descriptions of persons prohibited from migrating to, or becoming citizens of this commonwealth.

VII. ALL and every person and persons prohibited by this act, from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the General court of this commonwealth, as for a misdemeanor; and if upon trial, such person or persons be found guilty of a breach of this act, he or they shall be imprisoned, for a term not exceeding six months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the discretion of the said court, in any sum not exceeding three hundred dollars, and shall moreover stand committed until such fine be paid; and if the person or persons so convicted, shall be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, such person or persons shall be committed to the public jail; and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public jail for the space of five years, without bail or mainprize, and shall moreover forfeit all his goods and chattels, lands and tenements,

How they may be punished for contravening this act.

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In suits brought by them against citizens, judgment shall be rendered for the defendants with treble costs.

for the use of the commonwealth; and if any person prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever, in any of the courts of this commonwealth, against any citizen or other person entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of such action or suit; and if upon the trial of the cause, it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the same, after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon judgment shall be given against the plaintiff, with treble costs of suit; and the clerk of the Court in which such cause shall be tried, shall, within one month thereafter, transmit a copy of the record, together with the names of the witnesses sworn on the part of the defendant or defendants, to the Attorney General; who shall, at the next succeeding session of the General court, file an information, or prefer an indictment to the grand jury, against the person or persons against whom such verdict and judgment shall have been given.

All other former residents allowed to return.

But not to vote at elections or hold offices.

VIII. ALL persons resident in this, or any other of the United States, on the aforementioned nineteenth day of *April*, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenship, except that they shall not be capable of voting for members to either House of Assembly, or of holding or accepting any office of trust or profit, civil or military.

Nothing herein to contravene the treaty with *Great-Britain*.

IX. *PROVIDED*, That nothing herein contained, shall be construed so as to contravene the treaty of peace with *Great-Britain*.

Repealing clause.

X. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

XI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXI.

An Act concerning Coin, and for other Purposes.

[Passed the 19th of December, 1792.]

What gold and silver coins shall be current,

until regulated by congress. Rates.

So much of this act as relates to *German* gold and cut silver repealed. See acts of 1793, chap. 13.

The public accounts to be kept in dollars and parts of dollars.

I. BE *it enacted by the General Assembly*, That from and after the first day of *January*, in the year of our Lord one thousand seven hundred and ninety-three, the gold and silver coin herein after mentioned, shall be current in this commonwealth, and shall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it shall be otherwise regulated and directed by the Congress of the United States; that is to say: The gold coin of *France*, *Spain*, *Portugal*, and *England*, at the rate of five shillings and four-pence the pennyweight, or of a dollar for twenty-seven grains; the gold coin of *Germany* at the rate of four shillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight tenths of a grain; *Spanish* milled dollars at the rate of six shillings, or one hundred cents; and other silver coin uncut, in like proportion. Cut silver coin shall be receivable at the treasury of this commonwealth for all public dues and taxes, at the rate of six shillings and eight-pence, or one dollar and eleven cents the ounce.

II. *AND be it further enacted*, That the money of account of the commonwealth, shall be expressed in dollars or units, dismes or tenths, cents or hundredths, and milles or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the public offices, shall be kept and had in conformity to this regulation.

The treasurer to receive the interest on the deficiency of

III. THE treasurer of the commonwealth is authorised and directed to receive from the commissioner of the loan-office of the United States in this state, the interest which hath or shall become due on the deficiency of the sum allowed to be subscribed of the debt of this

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commonwealth, agreeably to an act of Congress, intituled, "*An act making provision for the debt of the United States.*" the loan of the state debt.

IV. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

V. THIS act shall commence in force, from and after the first day of *January*, in the year of our Lord one thousand seven hundred and ninety-three. Commencement of this act.

CHAP. CXII.

An Act against Divulgers of false News.

[Passed the 27th of December, 1792.]

I. WHEREAS many idle and busy headed people, do forge and divulge false rumours and reports: Preamble.

II. *BE it therefore enacted by the General Assembly*, That what person or persons soever, shall forge or divulge any such false reports, tending to the trouble of the country, he shall be by the next justice of the peace sent for, and bound over to the next county court; where if he produce not his author, he shall be fined forty dollars, (or less if the court think fit to lessen it) and besides give bond for his good behaviour, if it appear to the court that he did maliciously publish or invent it. Divulgers of false news to be fined and bound to good behaviour.

III. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

IV. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CXIII.

An Act to prevent unlawful Hunting.

[Passed the 23d of December, 1792.]

I. WHOSOEVER shall hereafter use any fire hunting, or the killing of any deer by such means, on any patented lands, every person present at such fire hunting, shall forfeit and pay four dollars for every such offence; which penalties shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to the use of the overseers of the poor of the district wherein the offence was committed, and the other half to the person or persons who will inform for the same. Penalty for fire hunting. And every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused, or the oath of one credible witness; and where the owner of any lands shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the whole penalty shall go to the overseers of the poor. What evidence of the offenders guilt shall be sufficient.

II. IF any person shall shoot, or otherwise kill any tame deer having a bell or collar on its neck, every person so offending, shall be liable to an action of trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed. Penalty for killing tame deer.

III. ALL and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act contained, shall be Repealing clause. Proviso.

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construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

IV. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXIV.

An Act concerning the right of Entry, and giving Remedy against collusive Judgments of Lands, and wrongful Alienations thereof in certain Cases.

[Passed the 19th of December, 1792.]

Preamble.

I. WHERE a husband doth lose the lands of his wife by default, it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right:

A widow not barred of right of entry into her land lost by her husband's default.

When the wife may defend a suit brought for her lands.

II. *BE it therefore enacted by the General Assembly*, That a woman after the death of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's consent, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

When the reversioner may defend a suit brought against the tenant for life.

III. IF tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

When the dying seized of a disseisor shall not take away the right of entry.

IV. THE dying seized hereafter of any disseisor having no right or title, shall not be such descent in law as to take away the right of entry from such, as at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title.

Husband's conveyance of his wife's lands not to prejudice her or her heirs.

V. NO feoffment, or other conveyance, or other act or acts hereafter to be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements, and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance, or act to the contrary notwithstanding.

Repealing clause. Proviso.

VI. ALL and every statute and act, or clause and clauses of any statute or act, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained, shall be construed to affect any right which may have accrued, or been vested before the commencement of this act.

Commencement of this act.

VII. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXV.

An Act reducing into one the ſeveral Acts concerning the Fees of certain Officers, and declaring the Mode of diſcharging the ſaid Fees and County Levies.

[Paſſed the 19th of December, 1792.]

Fees to be received by

I. BE *it declared and enacted, by the General Aſſembly,* That it ſhall and may be lawful for the clerk of the council, the clerk of the houſe of delegates, the regiſter, the clerks of the general court, high court of chancery, court of appeals, diſtrict courts, clerks of corporation courts, and all county court clerks, ſheriffs, coroners, conſtables, and ſurveyors, reſpectively, to demand, receive and take the ſeveral fees herein after mentioned and allowed, for any buſineſs by them reſpectively done, by virtue of their ſeveral offices, and no other fees whatſoever: That is to ſay---

To the Clerk of the Council,

The clerk of the council.

	Dols.	Cts.
For every teſtimonial, - - -	1	67

To the Clerk of the Houſe of Delegates,

The clerk of the houſe of delegates.

For a copy of an act of Aſſembly, if contained in one ſheet, - -	1	0
And for every ſheet after the firſt, - - -	0	75

To the Regiſter,

The regiſter of the land-office.

For iſſuing a warrant of ſurvey, and recording the ſame, - -	0	63
For every warrant iſſued in exchange for another warrant, or where lands claimed under a former warrant, ſhall be recovered on a *caveat*, and recording the ſame,	0	63
For receiving a plat and certificate, and giving a receipt for the ſame, -	0	10
For iſſuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,	1	26
For every hundred acres, exceeding that of four hundred, - -	0	10
For recording a plat and certificate of ſurvey, if the quantity does not exceed four hundred acres,	0	42
For every hundred acres exceeding that quantity, - -	0	10
For entering a *caveat*, or for a copy thereof, - -	0	42
For a copy of any grant or patent of land, - -	0	63
For a ſearch for any thing, or for reading the ſame, if a copy be not required,	0	21
For keeping a regular account of warrants, examined and cancelled, to be paid by the treaſurer, on the auditor's warrant, for each warrant,	0	6

To the Surveyor,

Surveyors.

For every ſurvey by him plainly bounded as the law directs, and for a plat of ſuch ſurvey, after the delivery of ſuch plat, where the ſurvey ſhall not exceed four hundred acres of land,	5	25
For every hundred acres contained in one ſurvey above four hundred, -	0	25
For ſurveying a lot in town, - - -	1	0
And where a ſurveyor ſhall be ſtopped or hindered from finiſhing a ſurvey by him begun, to be paid by the party who required the ſame to be ſurveyed,	2	62
For running a dividing line, - - -	2	10
For ſurveying an acre of land for a mill, - -	1	5
For every ſurvey of land formerly patented, and which ſhall be required to be ſurveyed, and for a plat thereof delivered as aforeſaid, the ſame fee as for land not before ſurveyed,		
And where a ſurvey ſhall be made of any lands which are to be added to other lands, in an incluſive patent, the ſurveyor ſhall not be paid a ſecond fee for the land firſt ſurveyed, but ſhall only receive what the ſurvey of the additional land ſhall amount to,		

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	Dols.	Cts.
And where any ſurveys have been actually made of ſeveral parcels of land adjoining, and ſeveral plats delivered, if the party ſhall deſire one incluſive plat thereof, the ſurveyor ſhall make out ſuch plat for	1	5
For running a dividing line between any county or pariſh, to be paid by ſuch reſpective counties or pariſhes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten, - - -	0	30
For receiving a warrant of ſurvey, and giving a receipt therefor, -	0	17
For recording a certificate from the commiſſioners of any diſtrict of a claim to land allowed by them, to be paid by the claimant.	0	17
For making an entry for land, or for a copy thereof, - -	0	17
For a copy of a plat of land, or of a certificate of ſurvey, -	0	25

Aſſignees of ſurveys anſwerable for ſurveyor's fees where the aſſignor has not paid them.

II. *PROVIDED always*, That where any perſon ſhall employ a ſurveyor, and ſhall have received a plat of land ſurveyed, and afterwards ſhall aſſign the plat of land to any other, either before or after obtaining a patent for the ſame, if ſuch perſon for whom the land was firſt ſurveyed, ſhall not have paid for the ſaid ſurvey, it ſhall and may be lawful for the ſheriff or other officer of the county or corporation, where ſuch aſſignee ſhall reſide, at the inſtance of ſuch ſurveyor, to make diſtreſs upon the ſlaves, goods and chattels of ſuch aſſignee, in like manner as is herein after provided for ſurveyors or other officers fees refuſed or delayed to be paid.

To the Clerk of the Court of Appeals,

Fees to be received by the clerk of the court of appeals.

	Dols.	Cts.
The ſame fees with thoſe of the high court of chancery and general court, for ſimilar ſervices.		

To the Clerk of the High Court of Chancery,

The clerk of the high court of chancery.

	Dols.	Cts.
For filing a bill, anſwer, replication, or other pleadings, each -	0	26
For a copy thereof, for every twenty words, - -	0	2
For entering every decree, - - - - -	0	18
For drawing up every decree at large, entering the ſubſtance of the bill, anſwer and other pleadings, the ſubſtance of the evidence and the decree thereupon, for every twenty words,	0	2
For filing the depoſitions in every cauſe in behalf of each party, -	0	26
For a copy of the depoſitions, for every twenty words, - -	0	2

To the Clerk of the General Court,

The clerk of the general court.

	Dols.	Cts.
For a copy of a warrant and inquiſition of eſcheat, - -	1	92
Or of an inquiſition of eſcheat, - - - -	0	83
For the probation of any teſtament and recording the ſame, for entering the orders for appraiſing the eſtate, recording the inventory, writing and ſealing the probat, or any other matter concerning the ſame, or for a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſing the eſtate, recording the inventory, or for any other matter concerning the ſame where the appraiſement doth not amount to above three hundred dollars,	3	50
Or where the appraiſement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraiſement exceeds fifteen hundred dollars, or there is no appraiſement,	7	0
For a copy of a probat, or commiſſion of adminiſtration, -	0	70
For recording the memorial of each bargain, ſale, mortgage, or other conveyance, marriage ſettlement, or deed of truſt, there ſhall be paid by the perſon to whom the ſame ſhall be made,	0	18
For recording the certificate of a probat, or adminiſtration, - -	0	18
For a copy of a will, or inventory, - -	0	70
And if the original is contained in more ſheets than one, for a copy of every ſuch ſheet,	0	52

	Dols.	Cts.
For a copy of an account, - - - -	0	35
For recording of a deed or deeds for the conveying or ſettling any lands or tenements only, or together with ſlaves or perſonal eſtate, or any way concerning the ſame, acknowledged or proved in the general court,	2	62
For a copy of ſuch deed or deeds, with the endorſements thereon, and for a certificate of the acknowledgment or proof, and recording, -	1	57
For iſſuing a commiſſion to take the acknowledgment and privy examination of a *feme covert*, and recording it with the return of the commiſſioners,	0	87
For a copy thereof, - - -	0	52
For recording a deed concerning ſlaves, or any perſonal matter only, -	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording, -	0	70
Provided however, that for a deed of gift for ſlaves only, or for a copy thereof there ſhall be allowed only - -	0	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto, - -	1	22
For a copy thereof, - - -	0	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or ſettlement of lands,	0	70
For a copy of a bond with condition, - -	0	35

In Actions and other Suits,

	Dols.	Cts.
For every writ of error, *ſuperſedeas*, or *ſcire facias*, -	0	43
For taking bond on iſſuing a writ of error or *ſuperſedeas*, -	0	43
For every other writ in any action or ſuit whatſoever, -	0	35
For entering the ſheriff's return, and entering the bail by him returned in the rule-book,	0	35
For entering ſpecial bail, - -	0	35
For entering the perſonal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering ſecurity for coſts for perſons out of the country, -	0	35
For filing a declaration, and every plea or demurrer in any cauſe to the making up of the iſſue, and for filing errors upon appeals, writs of error, or *ſuperſedeas*,	0	35
For a copy of every declaration, plea or demurrer, or of errors, -	0	35
For every rule entered in the rule book, - -	0	35
For a copy of every rule, - -	0	18
For every order in court before trial, - -	0	18
For a copy of the ſame, - -	0	18
For filing papers for each party in any action or ſuit, -	0	26
For docketing every cauſe on the docket (to be charged but once) -	0	18
For every trial, ſwearing the jury and witneſſes, and recording a general verdict,	0	87
For adminiſtering an oath or affirmation in court, except witneſſes to a jury,	0	18
For every trial where there is a ſpecial verdict, ſwearing the witneſſes and jury, and recording ſuch verdict,	1	30
And where there is no jury, but a caſe agreed, -	0	43
For ſwearing witneſſes for each party in every cauſe where there is no jury,	0	26
For a copy of a caſe agreed, or notes of a ſpecial verdict, -	0	43
For entering every order made in court, after verdict, or demurrer joined,	0	18
For entering every continuance on the court docket, -	0	18
For entering every judgment, - -	0	18
For making a complete record of every cauſe, inſerting a caſe agreed or ſpecial verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	0	2
For a copy thereof or any part thereof, the ſame.		
For a recognizance in court, - -	0	35
For filing a return of a *habeas corpus*, - -	0	26
For filing the record on a writ of error, - -	0	26
For a copy of ſuch record for every twenty words, -	0	2

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To the Clerk of the General Court or High Court of Chancery,

[as the caſe may be.]

The clerk of the general court, or the high court of chancery.

	Dols.	Cts.
For taking a bond upon iſſuing injunctions.	0	43
For every *dedimus poteſtatem*,	0	35
For recording the report of auditors, when it is deſired,	0	70
For making a complete record of every cauſe, for every twenty words,	0	2
For filing the return of a *certiorari*,	0	26
For taxing the coſts in any action or ſuit, and a copy thereof,	0	35
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	0	2
For a ſearch for any thing, if above a year's ſtanding, or reading the ſame, or any part thereof, if required, if a copy be not taken,	0	18
For every order to a witneſs for attendance, (to be charged to the party againſt whom the order goes)	0	18

To the Clerks of the Diſtrict Courts,

The clerks of the diſtrict courts.

	Dols.	Cts.
For iſſuing a ſummons on a petition for lapſed lands,	0	87
For every order thereon,	0	26
In all other caſes, the ſame fees with thoſe of the county courts, for ſimilar ſervices; and for all other ſervices the ſame as thoſe of the clerk of the General Court.		

To the Clerk of a Diſtrict Court, or the Clerk of the High Court of Chancery,

[as the caſe may be.]

The clerks of the diſtrict courts, or the clerk of the high court of chancery.

	Dols.	Cts.
For filing the record upon an appeal, or *ſuperſedeas* from a county court, or any inferior court,	0	26
For a copy of ſuch record, for every twenty words,	0	2

To the Clerks of the County and Corporation Courts.

The clerks of the county & corporation courts.

	Dols.	Cts.
For every writ in the nature of an *ad quod damnum*, (to be paid upon iſſuing ſuch writ)	0	83
For recording the ſame with the inquiſition thereupon, (to be paid before inquiſition recorded)	1	92
For a copy of ſuch writ and inquiſition (to be paid down)	0	83
For taking a bond upon iſſuing injunctions in Chancery,	0	35
For recording deeds of leaſe and releaſe, for conveying or ſettling of lands only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto,	2	62
For a copy thereof,	0	95
For recording every deed of feoffment, or bargain and ſale, or other ſingle deed for conveying or ſettling lands and tenements only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto,	1	75
For a copy thereof,	0	70
For iſſuing and recording a commiſſion to take the acknowledgment and privy examination of a *feme covert*, with the certificate of the commiſſioners, if ſuch commiſſion be required,	0	70
For a copy thereof,	0	35
For recording a patent,	0	87
For a copy thereof,	0	43
For recording a deed concerning ſlaves, or any perſonal matter or thing only, with certificate of its proof or acknowledgment,	0	70
For a copy thereof,	0	52
Provided however, That for a deed of gift for ſlaves only, or for a copy thereof, there ſhall be allowed only,	0	35
For recording a letter of attorney,	0	52
For a certificate of the proof or acknowledgment thereof,	0	18

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	Dols.	Cts.
For a copy of a letter of attorney with ſuch certificate,	0	43
For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or ſettlement of lands,	0	35
For a copy of a bond, with condition, other than an appeal bond, the ſame.		
For a copy of any other obligation or promiſſory note,	0	18
For the probation of any will or teſtament, and recording the ſame, entering the order or orders for appraiſing the eſtate, and for any other matter concerning the ſame, where the will ſhall be contained in one ſheet,	0	70
And if the will is contained in more than one ſheet, for every ſuch ſheet,	0	35
For a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſement, and for any other matters concerning the ſame,	0	70
For recording an inventory, where the appraiſement doth not amount to more than thirty dollars,	0	18
Where the appraiſement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it ſhall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it ſhall exceed three hundred dollars, or there is no appraiſement,	4	37
For a copy of a will or inventory, if the original is contained in one ſheet,	0	52
If the original is contained in more ſheets than one, for a copy of every ſuch ſheet beſides the firſt,	0	35
For recording the age of a ſervant or ſlave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of ſlaves, if the court is held for that purpoſe (to be paid by the public)	3	50
For a copy of a liſt of tithables, in his precinct,	0	35
For the whole fee for an ordinary licenſe and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage licenſe, certificate, and bond,	0	87
For every ſearch for any thing above a year's ſtanding if a copy be not taken,	0	8
For reading any thing if a copy be not required,	0	8

In Actions and other Suits.

	Dols.	Cts.
For every writ, other than ſuch as are herein particularly mentioned,	0	18
For a copy of ſuch writ,	0	8
For every writ of execution, or *ſcire facias*,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a juſtice of the peace, returnable to the court, and recording the return and putting the ſame on the docket,	0	35
For every ſummons to ſummon a garniſhee on ſuch attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cauſe, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering ſpecial bail,	0	18
For entering ſecurity for coſts for perſons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any ſuit, except by petition,	0	8
For entering one or more attornies for each party,	0	8
For every petition, declaration, or other pleadings, except in ſuits by petition for debt, *detinue*, *aſſumpſit*, or *trover*,	0	18
For a copy of any declaration, ſpecial plea, or demurrer,	0	18
For a copy of a plea, if the general iſſue,	0	5
For every trial, ſwearing the jury and witneſſes, filing all papers, and recording a general verdict,	0	70
For every trial where there is a ſpecial verdict, or caſe agreed, and recording the ſame,	1	13

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	Dols.	Cts.
For ſwearing the witneſſes in every other cauſe, where there is no jury or caſe agreed, except by petition,	0	18
For filing the papers of each party in every cauſe, except by petition, and where there is a jury or caſe agreed,	0	18
For a copy of a ſpecial verdict, or caſe agreed, and every thing therein ſet forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof, -	0	18
For filing a bill, anſwer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words, -	0	2
For a commiſſion to examine witneſſes, - -	0	43
For attending and writing depoſitions taken againſt inſpectors before juſtices of the peace,	1	75
For entering every decree in chancery, - -	0	26
For filing the depoſitions in any ſuit, for each party, -	0	8
For every depoſition taken in court, - -	0	18
For a copy of a depoſition, - - -	0	18
For adminiſtering an oath in court, not relating to the trial of any cauſe there depending, and certifying the ſame, - -	0	18
For every recognizance in court, - -	0	18
For entering the order or orders in any cauſe in one court,	0	26
For entering every order for attendance of witneſſes, -	0	18
For a copy of any order, - - -	0	18
For recording the report of a jury in the county, ſurveyor, auditor or viewers,	0	35
For a copy thereof, - - -	0	35
For taxing coſts to any judgment or decree, where coſts are recovered, or for a copy of a bill of coſts, if required,	0	20
For a copy of an account, - - -	0	18
For entering an appeal, and taking bond to proſecute it,	0	35
For a copy of the bond, - -	0	18
For returning an appeal and ſecurity to the office of the court of chancery, or a diſtrict court, (as the caſe may be)	0	52
For returning a writ of error, *ſuperſedeas*, *certiorari*, or *habeas corpus*,	0	35
For a copy of the proceedings of the cauſe, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of ſatisfaction of a judgment,	0	18
For entering each order for a witneſs's attendance, (to be charged to the party in whoſe behalf the witneſs is ſummoned, and taxed in the bill of coſts, if ſuch party recover,)	0	18
For a copy thereof, to be taxed and charged in like manner,	0	18
For an attachment thereon, to be charged to the party againſt whom the attachment ſhall be iſſued,	0	18
For the whole fee chargeable for every petition for debt, *detinue*, *aſſumpſit*, or *trover*, and all the proceedings therein, including a copy of the judgment, and taxing coſts, if required, except the reſpective fees for ſummoning witneſſes, entering attornies, for every order for continuance, and for iſſuing execution, where any of thoſe matters happen,	0	87
For entering an attorney in ſuch petitions, to be paid by the party by whom ſuch attorney ſhall be employed, and not to be taxed in the bill of coſts,	0	8
For a ſummons for ſeveral witneſſes living in one county, if ſummonſes for all be taken out at one time,	0	18
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the ſame to be recorded in the General Court,	0	52

WHICH ſaid ſeveral fees ſhall be charged to the party at whoſe inſtance the buſineſs ſhall be performed, except where it is otherwiſe directed.

The commiſſioners of the high court of chancery.

III. THE commiſſioner or commiſſioners of the High Court of Chancery may iſſue their tickets for the ſums allowed by the ſaid court, for ſervices performed by them under the orders of the ſaid court, and deliver them to the reſpective ſheriffs, at the ſame time the

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clerk of the ſaid court is directed by law to deliver his tickets; and the ſeveral ſheriffs ſhall collect and account for them in the ſame manner, and under the like penalties, and ſhall have the ſame allowance for collecting and for inſolvencies, as are preſcribed in the caſe of the clerk of the ſaid High Court of Chancery.

IV. IF any plaintiff or defendant, or his or her attorney, ſhall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cauſe, or of any common order made in ſuch cauſe, the charge of ſuch copies ſhall not be allowed in the bill of coſts, although ſuch party recover; and where more attornies than one ſhall be employed in any cauſe on one ſide, if ſuch attornies take out more than one copy of any thing neceſſarily relating to the ſuit, yet no more than one copy ſhall be allowed in the bill of coſts; neither ſhall the clerk tax any fee in the bill of coſts for entering more than one attorney, although coſts ſhall be adjudged againſt the adverſe party. Rules in taxing coſts.

	Dols.	Cts.
FOR all public ſervices of the clerk, viz. entering and iſſuing copies of orders for appointing ſurveyors of high ways, appointing conſtables, grand juries, taking a liſt of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the liſt of tithables for the collector, and for entering and iſſuing the orders, except againſt guardians, where they ſhall ſtand out in contempt (to be charged to ſuch guardian) and iſſuing the orders for recommending ſheriffs and juſtices, and for proceſſioning, and all other public ſervices for which no particular fee is allowed, to be levied annually by the juſtices of the county	25	0

V. AND where a motion or ſuit ſhall be inſtituted againſt any perſon or perſons for money due to the public, in the name of, or by the perſon authoriſed by law ſo to do, and judgment ſhall be recovered againſt him, her, or them, the clerk of the court wherein ſuch motion or ſuit ſhall be inſtituted, ſhall and is hereby required to charge all the fees accruing thereon, to the perſon or perſons againſt whom ſuch judgment ſhall be obtained. In ſuits or motions againſt public debtors.

VI. NO county court clerk ſhall charge any fee for making up a complete record, unleſs it be in cauſes where the title or bounds of lands are determined, or where he is to tranſmit the tranſcript of the record of any cauſe to the office of a ſuperior court upon appeals, writs of error, *ſuperſedeas*, *habeas corpus*, or *certiorari*. In what caſes county court clerks may charge fees for making up complete records.

VII. AND to the end all perſons chargeable with any of the fees aforeſaid, may certainly know for what the ſame are charged, *Be it further enacted*, That none of the fees herein before mentioned, ſhall be payable by any perſon whatſoever, until there ſhall be produced, or ready to be produced unto the perſon owing or chargeable with the ſame, a bill or account in writing containing the particulars of ſuch fees, ſigned by the clerk or officer to whom ſuch fees ſhall be due, or by whom the ſame ſhall be chargeable reſpectively; in which ſaid bill or account, ſhall be expreſſed in words at length, and in the ſame manner as the fees aforeſaid are allowed by this act, every fee for which any money or tobacco is or ſhall be demanded. Fee bills to be produced.

To the Sheriff or Serjeant,

(as the caſe may be)

Sheriff's fees.

	Dols.	Cts.
For an arreſt, bond, and return,	0	63
For returning a *capias*, *non eſt inventus*,	0	21
For ſerving a *ſcire facias*,	0	30
For ſerving any perſon with an order of court, and making return thereof,	0	30
For pillorying any perſon,	0	42
For putting into the ſtocks,	0	21
For ducking any perſon,	0	42
For putting in priſon and releaſement,	0	42
For ſerving a *ſubpœna* in chancery,	0	30
For ſerving a ſummons upon a petition for debt, detinue, *aſſumpſit*, or trover,	0	30
For ſerving a *ſubpœna* for a witneſs in any cauſe in court, except ſummoned in court,	0	21

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	Dols	Cts.
For ſummoning an appraiſer, auditor, viewer, or witneſs to any deed, will, or writing, if required to be ſummoned, but not elſe,	0	21
For ſummoning and impannelling a jury, in every cauſe wherein a jury ſhall be ſworn,	1	5
For coming to and attending the diſtrict court with the *venire*, and return of the *venire facias*, the ſame as is allowed to a *venire* man, (to be paid by the public) and for attending the diſtrict with ſtolen goods where there is no *venire*, the ſame,		
For ſummoning the juſtices of the county and attending a court for the examination of a criminal (to be paid by the public)	4	20
For removing of every criminal from the county jail to a diſtrict jail, for every mile,	0	10
For removing a debtor by *habeas corpus* from the county jail to a diſtrict jail, for every mile,	0	4
For executing every condemned perſon, and all fees incident (to be paid as aforeſaid)	5	25
For ſummoning a jury upon any inquiſition, ſurvey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear, - - -	1	57
For making a return of a writ of dower, partition, or in the nature of an *ad quod damnum*,	1	5
For every day's attendance upon a jury in the country after they are ſworn, or attendance upon a ſurveyor, when ordered by the court,	1	5
For ſerving a writ of *habere facias ſeiſinam*, or *habere facias poſſeſſionem*, -	1	5
For ſerving an attachment upon the body, - -	0	63
For ſerving a writ of *diſtringas* iſſuing from a judgment in detinue when the ſpecific thing ſhall be taken,	1	5
For ſerving a declaration in ejectment, if againſt one tenant, -	0	63
And if againſt more tenants than one, for ſerving the declaration on every other tenant,	0	30
For whipping a ſervant, to be paid by the owner, and repaid by the ſervant,	0	42
For whipping a free perſon by order of court (to be paid by ſuch perſon) the ſame.		
For whipping a ſlave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, "*An act for reducing into one, the ſeveral acts concerning executions, and for the relief of inſolvent debtors*,"	0	63
For proceeding to ſell on any execution on behalf of the commonwealth, or of any individual, if the property be actually ſold, or the debt paid, the commiſſion of five *per centum* on the firſt three hundred dollars, or ten thouſand pounds of tobacco, and two *per centum* on all ſums above that, and one half of ſuch commiſſion where he ſhall have proceeded to ſale, and the defendant ſhall have replevied, and no other commiſſion, fee, or reward, ſhall be allowed upon any execution, except for the expence of removing and keeping the property taken.		
For ſerving an attachment, or for making diſtreſs upon the goods exceeding ten dollars, if ſold, the ſame fee as for ſerving an execution, where the goods do not exceed that value, or are not ſold,	0	63
For every garniſhee ſummoned on ſuch attachment, - -	0	21
For executing any writ of *diſtringas* or attachment on a decree in chancery, the ſame fee or commiſſions upon the amount of the value of the goods and chattels recovered, or money mentioned in ſuch decree as is by law allowed for ſerving any other execution.		
For ſerving and returning a general or diſtrict court writ, ſummons or order where the ſame is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For ſelling a ſervant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day, - -	0	21

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	Dols.	Cts.
For ſerving a juſtice's warrant, - - -	0	21
For ſummoning a witneſs before a juſtice, - -	0	10
For all public ſervices of the ſheriff, to wit, attending the courts of claims, impannelling grand juries, publiſhing writs for electing delegates or ſenators, and attendance, ſerving all public orders of court (except againſt guardians where they ſhall ſtand out in contempt, to be charged to ſuch guardian) and all other public and county ſervices, to be levied annually by the juſtices on the county	25	0

No fees to be charged to the defendants in preſentments, if acquitted.

VIII. AND when any perſon or perſons preſented by the grand jury, or proſecuted by the overſeers of the poor, ſhall be diſcharged of ſuch preſentment or proſecution, the clerk, attorney for the commonwealth, and ſheriff, ſhall be entitled to no fees for the ſame, but it ſhall be deemed to be included in the public ſervices; but if the party or parties ſo preſented or proſecuted ſhall be convict, then in ſuch caſe the clerk ſhall tax all ſuch fees againſt ſuch party or parties.

To the Coroner,

Coroner's fees.

	Dols.	Cts.
For taking an inquiſition on a dead body, (to be paid out of the eſtate of the deceaſed) if the ſame be ſufficient, if not by the county,	2	80
For all other buſineſs done by him, the ſame fees as are allowed the ſheriff for the ſame ſervices.		

To the Conſtable,

Conſtable's fees.

	Dols.	Cts.
For ſerving a warrant, - - -	0	21
For ſummoning a witneſs, - - -	0	10
For ſummoning a coroner's jury and witneſſes, - -	1	5
For putting into the ſtocks, - - -	0	21
For whipping a ſervant, (to be paid by the owner, and repaid by the ſervant)	0	21
For ſerving an execution or attachment, returnable before a juſtice, -	0	21
For ſerving an attachment, returnable to the county court, againſt the eſtate of a debtor removing his effects out of the county,	0	63
For whipping a ſlave, (to be paid by the overſeer, if the ſlave is under an overſeer, if not, by the maſter)	0	21
For removing any perſon ſuſpected to become chargeable to the county, (to be paid by the overſeers of the poor) for every mile,	0	4
The ſame for returning.		

Tables of fees to be ſet up.

IX. THE clerks of the general court, high court of chancery, court of appeals, and diſtrict courts, ſhall cauſe to be ſet up in ſome public place in their offices, and there conſtantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the ſame ſhall be miſſing through their neglect; and the clerk of every county and corporation court, ſhall in like manner ſet up a fair table of all other fees, herein before mentioned, in the courthouſe of his county, to be there conſtantly kept, on pain of forfeiting twenty dollars, for every court day the ſame ſhall be miſſing through his neglect; and the ſurveyor of every county ſhall alſo cauſe to be ſet up in ſome public place, in his office, and there conſtantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties ſhall be to the perſon or perſons, who ſhall inform or ſue for the ſame, and ſhall and may be recovered in any court of record within this commonwealth, by action of debt or information.

Penalty for over charging.

X. IF any officer hereafter ſhall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other buſineſs by him done, within the purview of this act, than herein before ſet down and aſcertained, or if any officer whatever ſhall charge or demand, and take any of the fees herein before mentioned, where the buſineſs for which ſuch fees are chargeable, ſhall not have been actually done and performed, (to be proved by the fee book of ſuch officer, upon his corporal oath) ſuch officer for every ſuch offence ſhall forfeit and pay to the party injured, beſides ſuch fee or fees, ſix dollars for every particular article or fee ſo unjuſtly charged or demanded or taken; to be recovered with coſts, in any court of record in this commonwealth, by action of debt or information: *Provided* the ſame be ſued for within twelve months after the offence ſhall be committed.

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Surveyors and clerks of district and county courts to deliver accounts of fees to the sheriffs.

XI. AND for the better collecting the said fees, *Be it enacted*, That the surveyor of every county shall, annually, before the twentieth day of *January*, and the clerk of every district, county and corporation court, respectively, shall, annually, before the first day of *March*, deliver or cause to be delivered, to the sheriff of every county in this state, and to the serjeant of every corporation, respectively, their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively.

Their duty in collecting them.

XII. AND the said sheriffs and serjeants are hereby required and empowered to receive such accounts, and to collect, levy and receive the several sums of money therein charged of the persons chargeable therewith; and if such person or persons, after the said fees shall be demanded, shall refuse or delay to pay the same, till after the tenth day of *April*, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county, or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of *April* in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorised and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk or other officer, as aforesaid, shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriffs hands to collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

No action to be brought for fees where distress can be made.

When the sheriffs are to account for them.

XIII. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of *May*, in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six *per centum* for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

Remedy against them in case of refusal.

Clerks of the court of appeals of the high court of chancery and general court to deliver accounts of fees to sheriffs. Remedy against them for failing to account for them.

XIV. THE clerks of the courts of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants, annually before the first day of *May*, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of *July*, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in *Richmond*, or such town or place as the treasury may be kept at, by the fifteenth day of *September*, annually, abating ten *per centum* for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath, the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees.

XV. THE executors or adminiſtrators of any ſuch ſheriff, under ſheriff, or ſerjeant, ſhall be liable to judgment as aforeſaid, for the fees received, to be collected by their teſtator or inteſtate, and accounted for. Every receipt for fees produced in evidence on any ſuch motion, ſhall be deemed to be the act of the perſon ſubſcribing it, unleſs he ſhall deny the ſame upon oath.

Sheriff's receipt to be deemed his act unleſs denied upon oath.

XVI. THE clerks of the ſaid courts, their executors or adminiſtrators, may obtain judgments as aforeſaid, for all balances now due to them from any ſheriff, under ſheriff, or ſerjeant, on account of fees heretofore put into their hands to be collected.

XVII. THE judges of the ſuperior courts (except the general court) ſhall make ſuch allowances from time to time to their reſpective officers as they ſhall think reaſonable; taking into account the time paſt for which no allowance hath been made by the aſſembly; which allowances when made and audited, ſhall be paid by the treaſurer out of any public money in his hands.

Superior courts to make allowances to their officers.

XVIII. ALL acts or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, That nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been veſted, or incurred prior to the commencement of this act.

Former acts repealed. Proviſo.

XIX. THIS act ſhall commence and be in force from and after the paſſing thereof.

Commencement of this act.

CHAP. CXVI.

An Act reducing into one, the ſeveral Acts for the Settlement and Regulation of Ferries.

[Paſſed the 26th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That ferries be conſtantly kept at the places hereafter mentioned, and at the rates annexed to each ferry; that is to ſay:

Public ferries eſtabliſhed.

Over the Bay of Cheſapeake.

FROM York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceaſed, on Hungar's river, for a man or horſe paſſing ſingly, three dollars and thirty-three cents; for a man and horſe, or if there be more, for each, two dollars and fifty cents.

Over Patowmack River and its Branches.

	For a man Cents	For a horſe Cents
From Henry Aſhton's to Cedar Point, Maryland, - -	42	42
From Thomas Rowe's to Cedar Point, - -	42	42
From Hooe's to Cedar Point, - - -	33	33
From Lawrence Waſhington's to Maryland, oppoſite,	42	42
From Boyd's-hole to Maryland, oppoſite, - -	42	42
From the land of Guſtavus Scott in Stafford, to Kennedy's in Maryland,	33	33
From Newport in Prince-William, to Chamberlayne's in ditto,	33	33
From the town of Carbury to Brook's in ditto, - - -	25	25
From William Clifton's to Wallis's in Maryland, - -	17	17
From Hereford's in Doeg's neck, to the lower ſide of Pamunkey in Maryland,	17	17
From Hugh Weſt's to Frazier's or Addiſon's in ditto, - - -	17	17
From Hunting Creek warehouſe landing, to Frazier's point or Addiſon's in do.	17	17
From Floyd's to Powell's, - - - - -	8	8
Over Occoquan in Prince-William to Colcheſter, - - -	4	4
Over Nominy in Weſtmoreland, - - - - -	6	6
From Maſon's to Rock Creek in Maryland, - - -	6	6
From Earl Tankerville's in Loudoun, to Maryland, - - - -	6	6
From Noland's in Loudoun, to Arthur Nelſon's land in ditto, -	5	5
From Swearingen's, Berkeley, to his land in ditto, - - -	5	5
From Harper's to his land in ditto, - - - -	5	5

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	For a man Cents	For a horse Cents
From Foreman's, Frederick, to the opposite shore,	5	5
From Aubrey's in Loudoun, to Hook's in Maryland,	5	5
From Watkins's, opposite Canagochego Creek, to Wade's in ditto,	4	4
From John Rout's land, Shenandoah, to the fork, or over the main river,	4	4
From Kersey's or Burwell's to the land of Landon Carter,	5	5
From Key's landing to William Fairfax, or his heirs land,	5	5
At Williams's Gap, from Lord Fairfax's land, to Ralph Wormeley's land,	5	5
From Samuel Earl's, Frederick, to Lord Fairfax's,	4	4
From Thomas Bryan Martin's, Frederick, over the Shenandoah,	5	5
From John Turberville's at Dial's landing, over Patowmac,	8	8
From Ralph Humphreys's, Hampshire, over the south branch of Patowmac,	6	6
From Thompson Mason's, deceased, Loudoun, over Patowmac,	8	8
From R. Parker's, Hampshire, over south branch, Patowmac,	5	5
From Isaac Parsons's, over the south branch of Patowmack, opposite,	6	6
From John Pankake's, Hampshire, over the south branch ditto, to Jacob Earsom's,	5	5
From B. Rankin's over the Shenandoah, to the land of G. W. Fairfax,	5	5
From Peter Harbout's, Loudoun, over Goose Creek, to the land of Dr. W. Selden,	4	4
From Edward Snicker's at Williams's Gap, over the Shenandoah, opposite,	5	5
From Cuthbert Bullitt's, over the mouth of Quantico,	8	8
From J. Chenowith's, Hampshire, across Cacapon, opposite, to James Largent's,	6	6
From Elias Poston's ditto, across to his land opposite,	6	6
From C. Buck's, Frederick, across the north fork of Shenandoah, mouth of Passage Creek, to the land of Isaac Hite, opposite,	5	5
From Thomas Buck's, to the lands of G. Harden and Rowley Smith,	4	4
From Luther Martin's Hampshire, across Patowmack, at the confluence of the north and south branches, opposite,	6	6
From Jos. Berry's across the Shenandoah, opposite,	5	5
From J. Chenowith's Hampshire, across great Cacapon Creek, opposite,	6	6
From Conrad Glaze's, Hampshire, across south branch Patowmac, to his land opposite,	6	6
From Rees Prichard's Hampshire, over the north fork of Great Cacapon, opposite,	6	6
From Benjamin Edwards's, Goose Creek, Loudoun, over Patowmac opposite,	6	6
From John Hooe's, Prince-William, across Occoquan, to the old warehouse,	4	4

Over Rappahannock, and its Branches.

	For a man Cents	For a horse Cents
From Urbanna to Locust Point,	4	4
From the lands of J. Chowning, Lancaster, to Urbanna,	33	33
From Byrd's to Williams's,	33	33
Over Piscattaway Creek in Essex,	4	4
Over Rappahannock Creek, Richmond county,	4	4
From the landing of William Ritchie on Tappahannock to the Causey on the opposite side,	17	17
From Fauntleroy's to the landing of William Ritchie,	25	25
From Ley's land to Robinson's,	8	8
From Leed's Town to the causey opposite,	8	8
From the public landing at Port Royal, to Gibson's warehouse landing,	6	6
From Taliaferro's landing to Carter's,	4	4
From Alexander's to Conway's,	4	4
From the wharf at Newport to Ball's landing,	4	4
From Johnson's plantation, Spotsylvania, to Washington's in King George,	4	4
From Fredericksburg warehouse landing to Hunter's landing,	4	4
From Henry Fitzhugh's, Fredericksburg, to the land of William Fitzhugh, opposite,	4	4
From Falmouth to the land of Francis Thornton,	4	4

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	For a Man Cents	For a horse Cents
From the land of William Richards, Stafford, to those of Simon Miller, Culpeper, - - -	4	4
From the lands of Gawin Lawson, Stafford, to Fielding Lewis's land, Spotsylvania, - - -	4	4
From Port Royal in Caroline, to the lands of Francis Conway, vested in James Bowie, jun. - - -	5	5
From the lands of Landon Carter, Culpeper, across at Norman's ford,	4	4
From Francis Thornton's lands in Spotsylvania, to the town of Falmouth, opposite, across his bridge, - -	4	4
At Lowry's across Corotomon river, - - -	6	6
On Pianketank River.		
From Seaton's to the opposite shore, - -	8	8
From Turk's to the opposite shore, - -	5	5
On York River and its Branches.		
From York town to Gloucester town, - -	13	13
From Cappahosick to Scimino, - - -	25	25
From the brick house to Dudley's, - - -	25	25
From West Point to Dudley's, - -	13	13
From Fox's in Gloucester, to Scimino over York river, -	25	25
From Frazier's to the causey opposite, - -	8	8
From Mantapike on G. Brooke's land, to the causey on William Frazier's land, - - -	8	8
From Waller's to Walkerton, - -	8	8
From Brick House to West-Point, - -	13	13
From Sweet-Hall to Claiborne Gooch's,	8	8
From the land of John Watkins, New-Kent, to Thomas Claiborne's land, King-William, - - -	8	8
From Chamberlayne's to Claiborne's, - - -	8	8
From the land of George Webb, to the opposite landing, -	8	8
From Blackwell's to King's, - - -	4	4
From Taylor's land to Nelson's, - -	4	4
From Philip Aylett's, at his warehouse across Mattapony opposite, -	4	4
From Dabney's to Page's. - - -	4	4
On James River and its Branches.		
From Hampton to Brook's Point, - -	4	4
To Norfolk or Nansemond Town, - -	One	Doll.
From the Borough of Norfolk to Portsmouth or Washington, -	5	5
From Portsmouth to Washington, - -	5	5
From Hodsden's over Pagan Creek to Smithfield, - -	6	6
From Charles Fulgham's to Smithfield, - -	8	8
From Cockfield's Point, to Robert Peale's near Sleepy-Hole, -	8	8
From Jeremiah Godwin's over the Western Branch to James-Benn's, -	6	6
From Benjamin Bascomb's over Bennet's Creek, to James Buxton's,	6	6
From John Reid's over the Western Branch, to Jeremiah Godwin's,	4	4
From the lands of Lemuel Riddick, in Suffolk, to Jordan's, -	6	6
From Hog-Island in Surry, to Higgason's Landing, so long as the ferry-keeper shall keep up the bridge over Hog-Island Creek at his own charge,	21	21
From James-Town to Swan's Point, *vice versa*, -	21	21
From Cobham to James-Town, under the regulation of trustees to let the ferry, and superintend the boats, - -	21	21
From Edloe's land in Charles-City, to his land in James-City, -	8	8
From Edloe's land in Charles-City, to Armistead's Point, -	5	5
From Dancey's land in Charles-City, to Barrett's, - -	8	8
From Deloney's to Edloe's, - -	10	10
From Westover to Maycox's, or Coggin's Point, -	10	10

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	For a man Cents	For a horſe Cents
From Bermuda-Hundred to Shirley, - -	8	8
From Bermuda-Hundred to City-Point, - -	25	25
From the land of Thomas Pierce, Smithfield, acroſs Pagan Creek, to the land of William Hodſden, - -	17	17
From the land of William Black, Cheſterfield, over James River to Rockett's, - - - -	6	6
From the land of David Roſs, Bedford, acroſs James River at the mouth of Archer's Creek, to the land of R. Bolling, - -	4	4
From William Anderſon's, Botetourt, over James River to William Crow's ſhore, - - -	4	4
From the lands of William Pride, over Perſie Stile's Creek, to the land of Peter Baugh, - - -	4	4
From the land of Henry Trent, Amherſt, over the Fluvanna, to the land of Nicholas Davies, - - -	4	4
From Nicholas Lewis's, Albemarle, acroſs the Rivanna, -	4	4
From Charles Woodſon's, in Henrico, to Tarlton Woodſon's, Cheſterfield, - - -	6	6
From Bolling's Point, over Appamattox River, -	3	3
From the lands of Henry Batte, Henrico, to the glebe lands, Verina,	5	5
From Charles Ellis's, to Daniel Weldon's, -	4	4
From the land of Reuben Coutts, in Richmond, to Mancheſter Town,	6	6
From the upper landing in Beverly Town, to the land of Anderſon Britton, - - - - -	4	4
From the land of Matthew Woodſon, to the Manacon Town, -	4	4
From the land of Benjamin Jude, to the land of William Reynolds, -	4	4
From the land of Samuel Woodſon, to the land of Jacob Michaux, -	4	4
From the land of John Woodſon, below the mouth of Willis's creek, to his lands on the oppoſite ſide of the river, - - -	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, acroſs the Fluvanna, to the lands of Joſeph Mayo, deceaſed, -	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, acroſs the Rivanna, to the lands of David Roſs, - -	3	3
From the ſaid lands of David Roſs, to the lands of Joſeph Mayo, deceaſed,	4	4
From the lands of John Harvie, acroſs the Rivanna, to the lands of David Roſs, - - - - -	4	4
From the lands of David Roſs, acroſs the Fluvanna, to his lands on the oppoſite ſhore, - - - -	4	4
From John Lynch's, Bedford county, acroſs the Fluvanna, -	4	4
From the land of John Nicholas, over Slate river, -	4	4
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferſon, - - -	4	4
From the land of William Howard, over Rockfiſh river, to his lands oppoſite, - - -	4	4
From ditto, over the Fluvanna, to Thomas Anderſon's landing, and from ſaid Anderſon's to Howard's, - -	4	4
From the land of Nicholas Cabell, in the county of Amherſt, at the mouth of Swan creek, over the Fluvanna, to the land of Francis W. Spencer, - - -	4	4
From the land of John Cabell, in the county of Buckingham, over the Fluvanna, to his land on the oppoſite ſhore, -	4	4
From the land of Joſeph Cabell Megginſon, in the county of Buckingham, over the Fluvanna, to his land on the oppoſite ſhore, -	4	4
From the land of G. Stovall, over the Fluvanna, to his land oppoſite,	4	4
From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river, - - -	4	4
From theland of John Buchanan's heirs, to his lands oppoſite, -	4	4
From Branch's, on James river, to the oppoſite ſhore, -	4	4
From the land of Jacob Michaux, to the land of Thomas Atkins, -	4	4
From the land of Wilſon Cary Nicholas, acroſs the Fluvanna, to the lands of John Hardy, - - -	4	4

	For a man Cents	For a horse Cents
From the lands of Henry Martin, jun. Fluvanna, over the north fork of James river, - - -	6	6
From the lands of John Grymes, deceased, over the west branch of Elizabeth river, to the land of M. Warren opposite.	6	6
From Richmond to Manchester, over Mayo's bridge, -	6	6

Over Nottoway River.

From Thomas Drew's land, to Dr. Browne's, -	4	4
From Bolton's land, to Simmons's land, - -	4	4
Over the toll-bridge in Southampton, - -	4	4

On Roanoke River and its Branches.

From Skipwith's land, Mecklenburg, to the opposite shore, -	4	4
From the land of John Dix, Pittsylvania, across the Dan river, to his land opposite, - - -	4	4
From Anderson's land, to Taylor's land, - -	4	4
From the land of Sir Peyton Skipwith on the north side, to his land on the south side, over the rivers Staunton and Dan, -	4	4
From Maynard's to Field's, - - -	4	4
From Samuel Jones's land, to Frederick Jones's land, -	4	4
From Fox's land, to Blanton's land, - -	4	4
From Ross's land, to Royster's land, - -	4	4
From William Black's land, to the opposite shore, - -	4	4
From Hunt's land, to Abney's land, - -	4	4
From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte, - - - -	4	4
From Black's land, to Brua's ford, - -	4	4
From Simms's land in Halifax, to Randolph's land, across Staunton river,	4	4
From Morton's landing, to Watkins's, - -	4	4
From the land of Edward Mitchell, Mecklenburg, across the Roanoke, to the land of Christopher Haskins, - - -	4	4
From John Flin's, across Staunton river, to Thomas Hoard's, opposite, -	4	4
From Cargill's in Charlotte, to Foushee's land, Halifax, over Staunton river,	4	4
From Watkins's to Murphy's, - - - - - - -	3	3
From Irving's landing across Dan river, to Davenport's, - -	4	4
From John Bibb's across Staunton river, to the opposite shore, - -	4	4
From Cole's to Fuqua's - - - - - - - -	4	4
From Boyd's to Hopson's - - - - - - -	4	4
From the lands of John Owens, Pittsylvania, over the Dan, to Sylvester Adams's land, - - - - - - - -	4	4
From the land of Margaret Boyd, over Dan, to her land opposite, - -	4	4
From the land of Nathaniel Terry to Fuqua's, - - -	4	4
From Dix's to Green's, - - - - - - -	4	4
From Harman Miller's, Halifax, to Legrand's over Dan river, -	4	4
From Jones's in Halifax, to Selden's opposite, across the Dan, - -	4	4
From David Brandon's over Dan, to the land of John Lawson, -	4	4
From John Boyd's over Dan, to the land of Patrick Boyd, - -	4	4
From the land of Joseph Eckolls, Halifax, across Staunton river, opposite,	4	4
From Wade's over Staunton, to the opposite shore, - - -	4	4
From John Ward's, over Staunton, Bedford, to his land opposite, - -	4	4
From John Canefax's, Campbell, across Staunton, to Ward's opposite,	4	4
From J. Harper's, across the Meherrin, over his bridge, - - .	3	3
From the land of William Gee, across Meherrin, to his land opposite, -	3	3

Ferries on the Ohio river and its branches.

From the lands of Van Swearingen, Ohio county, across the Ohio, -	8	8
From the land of David Chambers, Ohio county, across the Ohio opposite,	8	8
From the land of George Cox, Ohio county, across Ohio opposite, -	8	8

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	For a man Cents	For a horse Cents
From the land of Absalom Wells, Ohio county, across the Ohio opposite, -	8	8
From the land of Reason Pomfrey, Ohio county, across the Ohio opposite, -	8	8
From the land of Jonas Minser, Ohio county, across the Ohio opposite,	8	8
From the lands of Jesse Martin, across Monongahela, to the land of James Hord, on the opposite shore, - - -	4	4
From the land of Jesse Martin, across Monongahela, to the shore of David Scott, - - -	4	4
From the lands of James Cleland, Monongalia, across Cheat river, -	4	4
From the lands of Andrew Ramsay, Monongalia, across to William Morgan's, and from Morgan's to Ramsay's, the same, - -	4	4
From Josiah Prickett's, Monongalia, across the Monongahela opposite, -	4	4
From Robert Wood's, Ohio, across the Ohio, opposite, - -	8	8
From the land of John Henderson, Ohio, across the Ohio, opposite, -	8	8
From the lands of Isaac Williams, Harrison county, across the Ohio above and below the mouth of the Muskingum, - -	8	8
From the lands of Thomas Evans, across the Monongahela, at the mouth of Decker's creek, opposite, - - - -	4	4
From the lands of John Pettyjohn, Monongalia, across Tyger Valley river,	4	4
From the lands of Adrew Jee, over Cheat river, to Jacob Scott's shore,	4	4
From the land of Thomas Butler, over Cheat river, to his land opposite,	4	4
From the land of Samuel Morton, Monongalia, across Big Sandy creek, to the land of John Connor, senior, opposite, - -	4	4
From the land of George Jackson, Harrison county, over Elk creek opposite,	3	3
From the land of John Wickwire, Harrison county, over Tyger Valley river,	4	4
From the lands of John Jones, Ohio county, across the Ohio, opposite, -	8	8
From the lands of David Scott, across Monongahela river, opposite, -	4	4
From the lands of Charles Prather, Ohio, across the Ohio, to the opposite shore, - - - -	8	8
From the lands of Charles Prather, Ohio, across the mouth of Buffaloe creek, to the opposite shore, - - - -	3	3
From the lands of Edward Duling, deceased, Ohio county, over Ohio river, opposite, - - - - -	8	8
From the lands of Edward Duling, across the mouth of Fishing creek, to the land of Robert Woods, - -	3	3
From the lands of Robert Woods, Ohio, across the Ohio, opposite, -	8	8
From the lands of George Hollinbough, Monongalia, across Monongahela, to the land of Asay Holl, - - -	4	4
From the lands of Thomas Lewis, Kanawha county, across Ohio river, to the land of Isaac Greyham, opposite, - -	8	8
From the lands of Thomas Lewis, across the Kanawha river, to the lands of Robert Henderson, opposite, - - - -	6	6
From the land of Cornelius Brown, in Montgomery, over New-river opposite, - - - - -	4	4
From the lands of Samuel Pepper, at Buffaloe pond, Montgomery, over New-river, opposite, - - - - -	4	4
From the land of William Ingles, over New-river, to the opposite shore, -	4	4
From the land of John Anderson, over Greenbrier river, to the opposite, shore,	5	5
From the land of Austin and company, at the Lead Mines, Wythe, over New-river, to the opposite shore, - -	4	4
From the lands of Thomas Herbert, in Wythe, across New-river, to the opposite shore, - - -	4	4
From the lands of Dudley Evans, Monongalia, over Monongahela river, to the lands of George Wilson, - -	4	4
From the lands of John Collins, Monongalia, over Monongahela at the mouth of Robinson's run, opposite, - -	4	4
From the lands of James Caldwell, Ohio county, across the mouth of Wheeling creek, to the lands of Ebenezer Zane, - -	4	4

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	For a man Cents	For a horse Cents
From the lands of Hezekiah Davison, Harrison county, over west fork of the Monongahela, to William Berkley's, opposite, -	4	4
From the lands of Edward Jackson, Randolph county, across Buchanan river opposite, - - - -	4	4

Same rates, &c. at the opposite ferries.

II. THE rates of ferries kept opposite to those abovementioned, shall be governed by the same rates and rules.

Rates for wheel carriages.

Tobacco, cattle, sheep, goats, & hogs.

III. THE transportation of the following things shall be at the rates following: For every coach, waggon, chariot, and the driver, the same as for six horses. For every four wheeled chaise, phæton, and driver, the same as for four horses. For every two wheeled riding carriage, the same as for two horses. For every hogshead of tobacco, the same as for one horse. For every head of neat cattle, the same as for one horse. For every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse.

Penalty for taking greater rates.

IV. IF the keeper of any ferry or toll-bridge shall demand and take from any person, a greater sum for the ferriage or toll, than is allowed by this act, such offender shall forfeit to the person so over charged, the ferriage or toll demanded and received, and two dollars for every such offence; recoverable before any justice of the peace of the county.

County courts to direct the number of boats & hands, &c.

Owners of ferries to give bond and security.

V. THE court of every county or corporation wherein a ferry is, or shall be appointed, shall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which shall be kept at each ferry respectively, and the owner of the land whereon any such ferry is, if he hath not already given bond and security, shall within six months from the commencement of this act, give, bond with one security, in the court of the county or corporation wherein such ferry is, in the penalty of sixty dollars, with condition, that he will duly keep such ferry, or cause the same to be kept according to law, and will give immediate passage to all public messengers and expresses, when required from time to time. And in case any such person shall neglect or refuse to give such bond, or to cause the same to be given on his behalf, he shall forfeit and pay seven dollars for every month's refusal or neglect to the governor for the time being, and his successors, for the better support of the contingent charges of government, recoverable with costs, in any court of record, where the same shall be cognizable.

Public expresses to be ferry free.

VI. ALL expresses sent on public service by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, shall be accounted public messengers and expresses, and ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch carried by such express, be endorsed "on public service," and signed on the superscription by the person sending the same.

Men attending ferries to be free from levies, musters, &c.

Owners may be licensed to keep ordinaries without fee.

Penalty on other persons taking ferriages.

VII. AND for encouragement of ferry-keepers, and in consideration of setting over public messengers, and the persons exempted by this act: *Be it further enacted*, that all the men attending the said ferries be free of county levies, and from all other public services of musters, constables, clearing highways, impressments and other things of like nature, and that keepers of ferries shall not be chargeable with any fee for giving bond; and if the county or corporation court shall find it requisite or useful that an ordinary be kept at any ferry, they may license such ferry-keeper to keep ordinary, without any fee for the license, or obtaining the same, notwithstanding there be a sufficient number of other ordinaries in the same county or corporation. *Provided always*, that every ferry-keeper so licensed to keep ordinary, shall give bond and security, and be liable to the same penalties as other ordinary keepers. And if any other person whatsoever shall for reward, set any person or persons over any river or creek, whereon public ferries are by this act appointed, he or she so offending, shall forfeit and pay twenty dollars for every such offence, one moiety to the ferry-keeper nearest the place where such offence shall be committed, the other moiety to the informer; and if such ferry-keeper informs, he shall have the whole penalty; to be recovered with costs.

Court of *Norfolk* county to let ferries

VIII. IT shall be lawful for the court of the county of *Norfolk*, to let annually to the highest bidder, the ferries across *Elizabeth* river and the branches thereof, taking bond and

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across Elizabeth river annually.

good ſecurity for due payment of the money, and to apply the ſame as it may be received, towards leſſening the county levy.

County courts may eſtabliſh ferries oppoſite to thoſe now appointed.

IX. WHERE there is no ferry correſponding to one appointed by this act, it ſhall be lawful for the court of the county to conſtitute an oppoſite ferry, with the ſame rates. And the courts are empowered to appoint ferries over ſuch rivers and creeks in their reſpective counties, as ſhall be deemed convenient and neceſſary.

For what cauſes ferries heretofore eſtabliſhed ſhall be diſcontinued.

X. ALL ferries heretofore eſtabliſhed, and which have not been generally frequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued, unleſs the perſons entitled to keep the ſame, ſhall within ſix months after the paſſing of this act, procure all neceſſary boats and ferrymen, for the tranſportation of paſſengers at their reſpective ferries.

For what cauſes thoſe hereafter eſtabliſhed ſhall be diſcontinued.

XI. ALL ferries now eſtabliſhed, and which may be hereafter generally diſuſed and unfrequented for the ſpace of two years, ſhall be likewiſe diſcontinued, unleſs neceſſary boats and ferrymen are prepared for the ſame, within the ſpace of ſix months, after the expiration of the ſaid two years. And all ferries which may be hereafter eſtabliſhed, and which ſhall not be furniſhed with neceſſary boats and ferrymen within the ſpace of ſix months after the eſtabliſhment thereof, or ſhall at any time thereafter be generally diſuſed and unfrequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued.

The owners to be ſummoned on complaint to ſhew why they ſhould not be diſcontinued.

XII. AND it ſhall be lawful for the court of the county in which ſuch ferry or ferries ſhall be, on complaint to them made, to ſummon the proprietor or proprietors of the ſame, to ſhew cauſe why it ſhall not be diſcontinued, and to decide according to the teſtimony adduced.

Ferry keepers may convey paſſengers, &c. from either ſide to the other.

XIII. IT ſhall and may be lawful for any keeper of a ferry, to take into his boat or boats any paſſenger or paſſengers, carriages, horſes, or cattle of any kind whatſoever, on either ſide, to convey them over, and to receive the ferriage for the ſame; any law, uſage, or cuſtom to the contrary, notwithſtanding.

Repealing clauſe.

XIV. ALL and every other act and acts, clauſe and clauſes of acts, heretofore made for, or concerning any matter or thing within the purview of this act, ſhall be, and are hereby repealed.

Commencement of this act.

XV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXVII.

An Act reducing into one, the ſeveral Acts for regulating the Inſpection of Flour and Bread.

[Paſſed the 21ſt of December, 1792.]

Preamble.

I. WHEREAS the laws heretofore made for the inſpection of flour, have been found defective, and it has become neceſſary to adopt ſome regulations for the prevention of frauds in the exportation of bread:

Inſpectors of flour to be appointed. Places of inſpection.

II. *BE it therefore enacted by the General Aſſembly*, That one inſpector of flour ſhall be appointed at each of the following places, to wit:---*Alexandria*, *Fredericksburg*, *Richmond*, *Peterſburg*, *Blandford*, *Weſt-Point*, *Newcaſtle*, *York*, *Falmouth*, *Port-Royal*, *Hobb's-Hole*, *Colcheſter*, *Dumfries*, *Mancheſter*, *Oſborne's*, *Pocahuntas*, *Nomony*, *Broadway*, *Low-Point* in *Surry*, *Suffolk*, *Hampton*, *South-Quay*, *Norfolk*, *Morgan's-Town*, *Smithfield*, *Fort-Wheeling*, *Lynchburg*, *Hanover-Town*, *Portſmouth*, *Cumberland-Town*, at the mouth of *Buffaloe* Creek, on the lands of *Charles Prather*, and at the mouth of *Short* Creek, on the lands of *David Chambers*, in the county of *Ohio*.

Inſpectors how to be appointed.

III. THE courts of the ſeveral counties in which the places aforeſaid are ſituated, ſhall at their courts held in the months of *September* or *October* in every year, nominate and appoint a perſon of good repute, and who is a ſkilful judge of the quality of flour, to be in-

ſpector of flour at each of the places aforeſaid. In caſe of the death of any perſon ſo appointed, or his refuſal or neglect to act, the juſtices of the ſaid counties reſpectively, or any three of them, ſhall as ſoon as conveniently may be thereafter, meet together and appoint ſome other perſon in the room of the one ſo dead, or refuſing or neglecting to act, who ſhall execute the duties of his office, until the next court held for the county, where ſuch vacancy may have happened; and at ſuch court the juſtices ſhall appoint in manner before directed, ſome perſon to be inſpector of flour for the reſidue of the year. If any of the ſaid courts ſhall neglect to appoint ſuch inſpector at the time directed by this act, the governor, with the advice of the council, may ſupply ſuch vacancy; and the perſon ſo appointed, having taken the oath herein after mentioned, before a juſtice of the peace, ſhall continue in office during the ſame time, and have the ſame power and authority as if he had been appointed by the court of the county.

IV. ALL bolted wheat flour, and every caſk thereof, brought to any of the places before mentioned for exportation, ſhall be made by the miller or manufacturer thereof, merchantable and of due fineneſs, and without any mixture of coarſer flour, or the flour of any other grain than wheat.

Wheat flour not to be mixed with any other.

V. ALL bread and flour caſks which ſhall be brought to any of the places before mentioned for exportation, ſhall be well made, of good ſeaſoned materials, tightened with ten hoops, ſufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels ſhall be of the following dimenſions, to wit: the ſtaves ſhall be twenty-ſeven inches in length, and the heads ſeventeen inches and a half in diameter; and half barrels ſhall be of the following dimenſions, to wit: the ſtaves ſhall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

How barrels to be made.

VI. EVERY miller of flour and baker of bread for exportation, ſhall provide and keep a diſtinguiſhable brand-mark, with which he ſhall brand every caſk of flour and bread, and mark thereon the tare and nett weight, before the ſame ſhall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every caſk of flour not hooped and nailed as aforeſaid, and for every caſk of flour or bread ſo removed, and not branded and marked as aforeſaid, to be recovered from ſuch miller or baker, who ſhall neglect to comply with the directions of this act, or from the perſon who brings ſuch flour or bread to any of the places aforeſaid for ſale; and in caſe the penalty aforeſaid ſhall be recovered from the perſon bringing the ſaid flour or bread for ſale, ſuch perſon ſhall and may recover the ſame from the miller, baker or bolter from whom ſuch flour or bread was purchaſed or received; provided that it appears that he gave notice to ſuch miller, baker, or bolter, that he intended to carry the ſame to one of the places before mentioned for ſale or exportation, and that he requeſted ſuch baker, miller, or bolter, to ſecure and brand the ſaid barrels.

Millers & bakers to keep brand-marks.

Penalty for removing flour and bread not hooped, nailed, & branded.

VII. EVERY miller and bolter ſhall put into a barrel the full quantity of one hundred and ninety-ſix pounds of flour, and ſhall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them ſhall put a ſmaller quantity of flour into any caſk than is directed by this act, he ſhall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, ſeventeen cents.

Contents of caſks of flour. Penalty for deficiency in the weight.

VIII. ALL caſks wherein bread ſhall be packed, ſhall be weighed and the tare marked thereon; and if any perſon ſhall put a falſe or wrong tare on any caſk of bread, to the diſadvantage of the purchaſer, he or ſhe ſhall forfeit for every caſk ſo falſely tared, eighty-three cents; and the inſpector, or his aſſiſtants, upon ſuſpicion, or at the requeſt of the purchaſers, ſhall, and he is hereby required, to unpack any caſk of flour or bread; and if there ſhall be a leſs quantity of flour than is above directed, or if the caſk wherein bread is packed, ſhall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the caſe may be) ſhall pay the charges of unpacking and repacking, over and above the penalties aforeſaid; but otherwiſe the ſaid charges ſhall be paid by the inſpector, or by the purchaſer, if the trial be made at his requeſt.

Caſks of bread to be weighed & tare marked thereon.

Inſpector may unpack flour ſuſpected to be falſely packed.

IX. EVERY baker of bread for exportation, ſhall deliver with the ſaid bread a manifeſt of the contents thereof, with his brand marked thereon, and his name ſubſcribed thereto, under the penalty of ſeven dollars for every manifeſt delivered contrary thereto; and if

Bakers to deliver manifeſts with bread intended to be exported.

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Penalty for deficiency in the weight.

any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Flour to be inspected before exported.

Marks when inspected.

Fee for inspection.

X. ANY cask of flour brought to any of the places before mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act, he shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine fine, middling, ship-stuff; for which trouble the inspectors at *Alexandria*, *Fredericksburg*, *Falmouth*, *Richmond*, *Manchester*, *Petersburg*, *Pocahuntas*, and *Blandford*, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is hereinafter directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall re-pay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation, out of this state, any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board any ship or vessel for exportation.

Inspector to condemn unmerchantable flour.

But the proprietor may have it reviewed.

Penalty for exporting condemned or uninspected flour

Penalty for packing flour, &c. in old casks which have been branded and marked.

XI. AND whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

When flour may be inspected at merchant mills.

XII. *PROVIDED nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before mentioned places.

XIII. EVERY inspector of flour before he enters on the execution of his office shall make oath or affirmation---

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THAT he will without favour, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand, or cause to be branded, as passed, any cask or casks of flour, that do not appear to him to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness, as by this act required.

XIV. NO inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased. Not to purchase flour.

XV. IF any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall be branded "condemned," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask. Penalty for altering the mark of flour. For marking uninspected flour. For packing other flour in casks marked. For packing condemned flour in other casks.

XVI. IF the quantity of flour which shall be brought to any of the above mentioned places for inspection, shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch; or if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions, it shall be lawful for him to appoint one or more persons of good repute, and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorised to inspect and brand any flour in the same manner as the inspector may do. When inspectors may appoint deputies.

XVII. THE courts of the several counties in which the before mentioned places are situated, may at any time remove from office any inspector of flour for neglect of duty, malfeazance, or corrupt practices, and may supply the vacancy occasioned thereby, by appointing another inspector for the residue of the year. How they may be displaced.

XVIII. THE penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate, where the penalty does not exceed five dollars, and where they are over that sum, but do not exceed twenty dollars, the same shall be recovered by petition in the same manner as is by law directed in case of petitions for the like sum of money, and where the penalty incurred shall exceed the sum of twenty dollars, the prosecutor may sue for the same in the court of the county, or corporation, where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the commonwealth, if not otherwise appropriated. The prosecutor may make oath before the justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail. Penalties how recoverable. Defendants may be ruled to give special bail.

XIX. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act. Former acts repealed. Proviso.

XX. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

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CHAP. CXVIII.

An Act directing the mode of ſuing out and proſecuting Writs of Habeas Corpus.

[Paſſed the 19th of December, 1792.]

Duty of officers and others to whom writs of *habeas corpus* are directed. Charges of conveying the priſoner before the court, &c. to be tendered to them.

I. BE *it enacted by the General Aſſembly*, That whenſoever a *habeas corpus* ſhall be ſerved by delivering it to the officer or other perſon to whom it is directed, or by leaving it at the jail or priſon in which the party ſuing it out is detained, unleſs the warrant of commitment plainly and ſpecially expreſs the ſame to have been for treaſon or felony, if the charges of bringing the priſoner, to be aſcertained by the court or judge who awarded the writ, and thereon endorſed, not exceeding ſeventeen cents *per* mile, be paid or tendered, and ſufficient ſecurity to pay the charges of carrying him back, in caſe he be remanded, and that he will not eſcape by the way, be given, then the officer, or his deputy, within three days after ſuch ſervice, or if the priſoner is to be brought more than twenty miles, within ſo many days more as will be equal to one day for every twenty miles of ſuch further diſtance, ſhall make return of the writ, and bring the body of the priſoner, or cauſe it to be brought, before the proper judge or judges, according to the command thereof; and then ſhall likewiſe certify the true cauſes of his detainer or impriſonment.

By whom ſuch writs ſhall be ſigned. How they ſhall be obtained.

II. EVERY ſuch writ ſhall be ſigned by him who awards it.

III. AND if any perſon ſhall be, or ſtand committed or detained as aforeſaid for any crime, unleſs it be for treaſon or felony, plainly expreſſed in the warrant of commitment, in the vacation time, the priſoner not being convict, or in execution by legal proceſs, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who at the requeſt of ſuch priſoner, or other perſon on his behalf, atteſted by two witneſſes preſent at the delivery thereof, is hereby authoriſed upon view of a copy of the warrant of commitment or detainer, or otherwiſe upon affidavit made, that ſuch copy was deſired to be given by him in whoſe cuſtody the priſoner is detained, to award and grant a *habeas corpus*, to be directed to the officer in whoſe cuſtody the party committed or detained ſhall be, returnable immediately before the ſaid judge, or any other judge of one of the ſaid courts; and upon ſervice thereof as aforeſaid, the officer or his deputy, in whoſe cuſtody the party is ſo committed or detained, ſhall within the times before reſpectively limited, bring the priſoner before the court, or one of the judges thereof before whom the writ is made returnable, or in caſe of his abſence, before any other of them, with the return of the writ, and the true cauſes of commitment and detainer; and thereupon the judge before whom the priſoner ſhall be brought, ſhall, within two days thereafter, diſcharge him from impriſonment, taking his recognizance, with ſurety in any ſum, according to the diſcretion of the judge, having regard to the circumſtances of the priſoner and nature of the offence, for his appearance in the court of the diſtrict the term following, or in ſome other court where the offence is properly cognizable, as the caſe ſhall require; and then alſo certify the ſaid writ with the return thereof, and the ſaid recognizance into the ſaid court where ſuch appearance is to be made, unleſs it ſhall appear to the judge, that the party ſo committed is detained upon a legal proceſs, order or warrant, out of ſome court that hath juriſdiction of criminal matters, or by ſome warrant ſigned and ſealed with the hand and ſeal of any of the ſaid judges, or ſome juſtice of the peace, for ſuch matters or offences, for the which by the law the priſoner is not bailable.

When and before whom returnable.

How the priſoner when brought before the judge ſhall be diſcharged.

When writs of *habeas corpus* ſhall not be granted in vacation.

IV. IF any perſon ſhall have wilfully neglected, by the ſpace of two terms after his impriſonment, to pray a *habeas corpus* for his enlargement, ſuch writ ſhall not be granted to him in vacation in purſuance of this act.

Penalty on the officer for diſobeying the writ, &c.

V. ANY officer neglecting or refuſing to make the return aforeſaid, or to bring the body of the priſoner according to the command of the writ within the time aforeſaid, or not delivering a true copy of the warrant of commitment and detainer within ſix hours after demand thereof made, to the priſoner, or perſon demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, ſhall forfeit to the priſoner three

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hundred dollars; to recover which, the right of action ſhall not ceaſe by the death of either or both the parties.

VI. NO perſon who ſhall have been delivered upon a *habeas corpus*, ſhall afterwards be impriſoned or committed for the ſame offence, otherwiſe than by the order or proceſs of the court wherein he ſhall be bound by recognizance to appear, or ſome other court having juriſdiction of the cauſe.

No perſon to be again committed for the ſame offence after a diſcharge on a *habeas corpus*.

VII. A CITIZEN of this commonwealth committed to priſon in cuſtody of an officer for any criminal matter, ſhall not be removed from thence into the cuſtody of another officer, unleſs it be by *habeas corpus*, or ſome other legal writ, or where the priſoner ſhall be delivered to the conſtable, or other inferior officer, to be carried to ſome common jail, or ſhall be ſent by warrant of an overſeer of the poor to ſome common work-houſe, or ſhall be removed from one place to another, within the ſame county, in order to his diſcharge or trial in due courſe of law; or in caſe of ſudden fire or infection, or other neceſſity, or where the priſoner ſhall be charged by affidavit with treaſon, felony, or other crime, alledged to be done in any other of the United States of *America*; in which laſt caſe he ſhall on demand from the Executive authority of the ſtate from which he fled, be ſent thither in cuſtody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with ſureties before them, to appear there, whichſoever ſhall ſeem moſt proper, if the ſaid court or judges, upon conſideration of the matter, ſhall think he ought to be put upon his trial.

Priſoners not to be removed from the cuſtody of one officer to another, except in particular caſes.

VIII. ANY perſon as aforeſaid, may move for and obtain his *habeas corpus* as well out of the high court of chancery as out of the general court, or out of the court of that diſtrict wherein he ſhall be confined. And if any judge of either of the ſaid courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that ſuch copy was denied as aforeſaid, ſhall refuſe any writ of *habeas corpus*, by this act required to be granted, being moved for as aforeſaid, ſuch judge ſhall be liable to the action of the party grieved.

Writs of *habeas corpus*, by whom they may be granted.
Penalty on a judge refuſing to grant one.

IX. ALL and every act and acts, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

Repealing clauſe.

X. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

C H A P. CXIX.

An Act for improving the Breed of Horſes.

[Paſſed the 24th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That no perſon ſhall ſuffer a ſtoned horſe of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the incloſed ground of the owner or keeper; and whoſoever ſhall wilfully or negligently do ſo after having been admoniſhed to confine ſuch horſe, ſhall forfeit and pay twenty dollars to him who will ſue for it, and double that ſum for any ſuch tranſgreſſion, after one conviction; and if after a ſecond conviction, the ſame horſe be found ſo running at large, it ſhall be lawful for the perſon who will take him up, to retain him to his own uſe.

Penalties for ſuffering a ſtoned horſe to run at large.
After a ſecond conviction the perſon taking him up may retain him.

II. ALL and every act and acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

Repealing clauſe.

III. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

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CHAP. CXX.

An Act reducing into one, the several Acts making Provision for the Restraint, Support and Maintenance of Ideots and Lunatics, and the Preservation and Management of their Estates.

[Passed the 24th of December, 1792.]

Directors of the lunatic hospital incorporated.

I. BE *it enacted by the General Assembly*, That the present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by the Governor, with the advice of the Council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue, and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate, real or personal, given or to be given to the said hospital, or to themselves, for the use thereof, so as the annual revenue, or income of such donations, exceed not three thousand dollars; any law or statute to the contrary, notwithstanding.

Annual income of the hospital not to exceed a certain sum.

Directors may chuse a president; Seven to form a court. Keeper, matron, nurses, guards.

II. THE said directors shall and may so often as it may be necessary, choose a president to continue in office until his death, resignation or removal; and they, or any seven of them, shall form a court, and shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein.

Justices to examine insane persons;

III. BY warrant to be directed to the sheriff or serjeant, a justice of the peace shall order to be brought before him, any person whose mind from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request, shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound with surety, to restrain and take proper care of him, or her, until the cause for confinement shall cease, the said justices, or two of them, shall order the insane to be removed to the said hospital and there received, and for that end direct a warrant to the sheriff or serjeant, and a mittimus to the said keeper, transmitting therewith to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors.

And send them to the hospital unless security be given for their restraint.

How to be received, examined and registered.

IV. THE said keeper immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge, in a writing signed by him, and delivered to the sheriff or serjeant, shall inform the president thereof, who shall require his colleagues to meet as soon as may be, and at such meeting, which shall not unnecessarily be delayed, the directors, if having considered the case, they concur in opinion with the justices, shall register the insane as a patient, but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.

But may be delivered to their friends, giving security for their restraint.

Or discharged if the directors do not think it necessary to confine them.

V. IF upon the examination of any person charged with being a lunatic or ideot, or otherwise insane, the said court shall be of opinion, that he or she ought not to be confined, it shall be lawful for the said court forthwith to discharge him or her.

Justices to send with an insane person a certificate of his estate.

VI. WHEN any insane person shall be removed as aforesaid to the said hospital, the justices before whom such person was examined, shall cause a certificate of the estate of such insane person (if any there be) and of the probable annual profits arising therefrom, to be sent to the said directors, together with the proceedings before directed, to be transmitted to them; and shall also certify such removal, and the insane's estate, to the next court to be holden for the county, city, or borough, whence such removal was. On receipt of such certificate, it shall be lawful for such court, to appoint a committee, in whose hands shall be committed such insane's estate, for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to, and be liable to be sued

Committees to be appointed to manage estates of insane persons.

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for all debts due from ſuch inſane perſon; in the ſame manner as executors to deceaſed perſons are or may be; and out of the profits of ſuch inſane perſon's eſtate, the ſaid court may direct to be defrayed, the expences attending, as well the removal as the annual ſupport of every ſuch perſon while remaining in the ſaid hoſpital, to be paid to the ſaid court of directors. *Provided*, That ſuch county, city, or borough court, may allow a reaſonable ſupport to the family of ſuch inſane perſon, (if any he hath) out of his eſtate, ſo that neither the expences attending ſuch inſane perſon, nor the allowance to his family, ſhall defeat the claims of his or her creditors. Upon the appointment of any ſuch committee by the court as aforeſaid, ſuch court ſhall take bond, with good ſecurity, in a ſufficient penalty, for the true and faithful performance of the truſt thereby repoſed in them; and in caſe of failure in the examining juſtices to perform the duties by this act enjoined, or in caſe of failure in any ſuch court, to appoint committees as aforeſaid, and to take ſuch bond and ſecurity as is hereby required, the juſtices in either caſe ſo refuſing or neglecting, ſhall forfeit and pay for every ſuch refuſal or neglect, one hundred and fifty dollars, to be proſecuted for, and recovered by the attorney general in the name of the ſaid court of directors, for the uſe of the commonwealth.

Profits thereof to be applied to the ſupport of them and their families.

Committees to give bond with ſecurity.

Penalty on the juſtices for neglect.

VII. IF any perſon poſſeſſing lands or other property in this commonwealth, ſhall have removed, or ſhall hereafter remove out of the State, the high court of chancery, or the court of the county or corporation in which the greater part of ſuch perſon's property is, (on ſatisfactory proof being made that ſuch perſon has become inſane) ſhall and may appoint a committee, into whoſe hands ſhall be committed ſuch inſane's eſtate, for the ſafe keeping thereof, and for the neceſſary ſupport of ſuch inſane, and his or her family; which committee ſhall give the like ſecurity, have the ſame powers, and be governed by the ſame rules as are preſcribed for the committees appointed by virtue of a certificate from juſtices of the peace, who have examined inſane perſons, agreeably to the directions of this act.

How a committee ſhall be appointed, where an inſane perſon removes out of the ſtate.

VIII. IN caſe an infant child or ward, be ſuggeſted by the parent or guardian of ſuch infant child or ward, to be of unſound mind, the court of the county, city or borough, wherein ſuch perſon may reſide, ſhall appoint three juſtices to examine into the ſtate of his or her mind; and upon the report of the ſaid juſtices, if the ſuggeſtion appears to be true, ſuch court ſhall order the inſane to be removed to the hoſpital, in the manner before directed, where he or ſhe ſhall be received and regiſtered.

Inſane infants to be examined and ſent to the hoſpital.

IX. THE expence of maintaining and endeavouring to cure a regiſtered inſane, ſhall be paid by the public, and reimburſed out of his eſtate, (if any ſuch there be); and in caſe of an infant, not an orphan, ſhall be reimburſed by the parent, if of ſufficient ability to ſupport ſuch infant; to be adjudged of, and certified by the court of that county where the parent reſides, and may in either caſe be recovered by an action, in the name of the directors, who ſhall account for what ſhall thus come to their hands.

Expence of maintaining and curing regiſtered inſanes, how to be defrayed.

X. ACCOUNTS of expences incurred in the execution of this act, as well as for repairing the hoſpital, and other neceſſary incidental works and ſervices, ſhall be audited and diſcharged in the ſame manner as other public accounts.

Hoſpital accounts to be audited and diſcharged as other public accounts.

XI. THE directors ſhall enlarge every perſon confined in the hoſpital, who ſhall appear to them to be perfectly cured of inſanity, and give ſuch perſon a certificate thereof.

Perſons cured of inſanity to be diſcharged.

XII. A PERSON regiſtered in the hoſpital, ſhall nevertheleſs, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal ſettlement at the time of his or her removal to the hoſpital.

Perſons confined in the hoſpital to be deemed inhabitants of the counties from which they were removed.

XIII. IN caſe of the abſence of the preſident of the directors, the members preſent may chooſe a preſident, *pro tempore*.

Directors may chooſe a preſident *pro tempore*.

XIV. ANY director who ſhall remove to the diſtance of twenty miles or upwards, from the ſaid hoſpital, ſhall be conſidered as having vacated his office.

How directors ſhall vacate their ſeats.

XV. NOT more than two perſons ſhall be paid as a guard for removing any inſane perſon to the ſaid hoſpital; which two ſhall have the ſame allowance made them for their ſervices, as is at preſent allowed to guards employed in removing criminals, and who ſhall be paid by the court of directors, out of the monies appropriated for the uſe of the hoſpital.

Two guards allowed for removing an inſane to the hoſpital.

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Committees of insanes seized of lands in trust, may execute such deeds, &c. as the trustees could if of sound mind.

XVI. WHERE any person of unsound mind, is, or shall be seized or possessed of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

Estates of lunatics, &c. not sent to the hospital to be kept as the estates of those who are.

Estates of persons dying insane, how to be disposed of.

XVII. THE lands, tenements and chattels, of all ideots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "*An act to reduce into one, the several acts directing the course of descents.*"

Repealing clause.

XVIII. ALL and every act and acts, clause and clauses of acts, concerning any matter or thing within the purview of this act, are, and shall be henceforth repealed.

Commencement of this act.

XIX. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXI.

An Act to regulate Impresses.

[Passed the 24th of December, 1792.]

Officers and others making illegal impresses, to be apprehended and secured until discharged by due course of law.

I. BE *it enacted by the General Assembly*, That if any officer, soldier, commissary, quarter-master, or other person, shall presume to take from any citizen or citizens of this commonwealth, any part of their property by way of impress, unless it be by warrant from the executive in case of actual invasion, or by the sheriffs or serjeants bringing criminals to a district court, or in such other cases as is or shall be expressly allowed by law, it shall be lawful for any magistrate in the county or corporation where the offence is committed, upon information on oath, to issue his warrant for the immediate taking and safe keeping of such offender or offenders, till they are delivered by due course of law; and all officers of the militia are hereby enjoined to support the civil power in securing and bringing such offenders to justice.

Repealing clause.

Proviso.

II. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as hereinafter provided) shall be, and the same are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

III. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXII.

An Act concerning tributary Indians.

[Paſſed the 24th of December, 1792.]

I. BE *it enacted by the General Aſſembly,* That it ſhall not be lawful for any *Indian* king, or any other tributary *Indians* whatſoever, upon any pretence, or upon any conſideration, to bargain and ſell, or demiſe to any perſon or perſons, other than to ſome of their own nation, or their poſterity, in fee, for life or for years, the lands laid out and appropriated for the uſe of ſuch *Indians*, or any part or parcel thereof; or to bargain and ſell as aforeſaid, any other land whatſoever now actually poſſeſſed, or juſtly claimed, and pretended to by the ſaid *Indians*, or any of them, by virtue of any articles of peace made and concluded with ſuch *Indians* by this commonwealth, or by the government exiſting previous to the eſtabliſhment of this commonwealth, or by virtue of any other right and title whatſoever; and every bargain, ſale, or demiſe, hereafter made contrary to this act as aforeſaid, ſhall be, and is hereby declared to be null and void to all intents, conſtructions, and purpoſes. Tributary Indians not to ſell their lands to any, other than perſons of their own nation.

II. IF any perſon or perſons (other than the *Indians* and their poſterity) ſhall from and after the publication of this act, preſume to purchaſe or obtain any deed, or conveyance in fee, or any leaſe for years, from any of the tributary *Indians*, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually poſſeſſed, or juſtly claimed, or pretended to by the ſaid *Indians*, or ſhall occupy or tend any of the ſaid lands by permiſſion of the ſaid *Indians*, or otherwiſe, every perſon ſo offending, and being thereof lawfully convicted in any court of record within this commonwealth, ſhall forfeit and pay the ſum of one dollar and ſixty-ſeven cents for every acre of land ſo purchaſed, leaſed, or occupied, and ſo for every year ſuch perſon or perſons may hold poſſeſſion of ſuch lands, by virtue of ſuch purchaſe or leaſe; one moiety of which penalty ſhall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth. Penalty for purchaſing or occupying their lands.

III. THE *Indians* tributary to this government, ſhall be well ſecured and defended in their perſons, goods and properties; and whoſoever ſhall defraud or take from them their goods, or do hurt or injury to their perſons, ſhall make ſatisfaction, and be puniſhed for the ſame according to law, as if the *Indian* ſufferer had been a citizen of this commonwealth. Indians rights and privileges to be ſecured to them.

IV. ALL acts or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always,* that nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act. Repealing clauſe Proviſo.

V. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

C H A P. CXXIII.

An Act declaring that Joint-Tenancy may be pleaded in Abatement.

[Paſſed the 19th of December, 1792.]

I. BE *it enacted and declared by the General Aſſembly,* That in all actions, real or mixed, which ſhall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant ſhall plead that he holdeth the tenements in demand, jointly with his wife, or any other perſon, not named in the writ, and ſhew forth a deed teſtifying the ſame, and demand judgment of the writ, and thereupon iſſue be joined, and it be found againſt the truth of the plea by him in manner and form aforeſaid pleaded, the plaintiff ſhall recover his ſeizin of the tenements in demand, and double damages againſt the party by whom ſuch plea ſhall have been pleaded; but if it be found that the Tenant in real actions falſely pleading joint-tenancy in abatement, liable to double damages.

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matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated.

Such pleas to be sworn to.

II. *PROVIDED always*, That no such plea shall be admitted or received, in any case, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require.

Repealing clause.

III. ALL and every statute and statutes, act and acts, within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXIV.

An Act reducing into one, the several Acts concerning the Inspection of Lumber.

[Passed the 26th of December, 1792.]

Inspectors to be appointed.

I. BE *it enacted by the General Assembly*, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits, as they shall deem necessary.

How qualified.

II. THE inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security, in the sum of one thousand dollars, for the faithful performance of the duties of their office, and shall moreover take the following oath:---

I ,*do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality:* So help me GOD.

Length, breadth and thickness of staves and heading.

And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations; that is to say, all drawn white oak hogshead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch, if seasoned; white oak hogshead heading, shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, seven eighths of an inch thick, when green, and three quarters of an inch, if seasoned; the staves and heading aforesaid, to be without sap: Red oak hogshead staves, shall not be of less dimensions than the white oak aforesaid: Rough hogshead staves shall be at least forty-two inches long, three and an half inches wide, and one inch thick: Barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick: Pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick: Shingles shall not be less than eighteen inches long, four inches wide, and half an inch thick at the butt: And all plank, scantling, and ranging timber, shall be sound, and have square edges.

Of shingles. Plank, scantling, &c. to have square edges.

Inspectors fees.

III. THE inspectors of lumber, shall be entitled to demand and receive the following fees: For all hogshead staves and heading, twenty-five cents *per* thousand: For all pipe staves, thirty-three cents *per* thousand: For all barrel staves, seventeen cents *per* thousand: For all shingles, six cents *per* thousand: For all plank and scantling, fifty-six cents *per* thousand: And for all ranging timber, forty-two cents *per* thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not to be exported until inspected.

IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of

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such vessel shall produce inspector's notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board but what is particularly entered in his manifest. Any master, commander or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

Vessels not to be cleared until the masters produce such certificate, and take an oath.

Penalty for exporting it without.

V. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Repealing clause. Proviso.

VI. THIS act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXV.

An Act providing that the Exception of Non-tenure of Parcel, shall not abate the whole Writ.

[Passed the 19th of December, 1792.]

I. BE *it enacted and declared by the General Assembly*, That by the exception of non-tenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the non-tenure which is alledged.

Exception of non-tenure of parcel, not to abate the whole writ.

II. ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

Repealing clause.

III This act shall commence and be in force, from the passing thereof.

Commencement of this act.

CHAP. CXXVI.

An Act providing a Method to help and speed poor Persons in their Suits.

[Passed the 24th of December, 1792.]

I. BE *it enacted by the General Assembly*, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of *subpœna*, according to the nature of his cause, nothing paying for the same.

Poor persons may sue out original writs, &c. without paying therefor.

II. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made, who shall do their duties without any reward for their councils, help and business in the same.

The courts shall assign them counsel.

III. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs.

When plaintiffs, shall pay no costs.

IV. ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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CHAP. CXXVII.

An Act to reduce into one, the ſeveral Acts for regulating Pilots, and aſcertaining their Fees.

[Paſſed the 26th of December, 1792.]

Examiners appointed.

I. BE *it enacted by the General Aſſembly*, That *Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Pariſh*, and *Edward Rudd*, or any three of them, be, and they are hereby appointed to examine every perſon that ſhall deſire to be admitted a pilot.

II. EACH examiner before he enters on the duties of his office, ſhall take an oath before ſome court of record truly and impartially to execute the truſt repoſed in him.

Perſons applying for examination to produce certain certificates to the examiners. Fee for examination. Branches to be given to thoſe who are qualified.

III. EVERY perſon applying to be examined, ſhall produce a certificate from the county or corporation court where he reſides, of his honeſty and good behaviour, ſatisfactory proof that he hath ſerved as an apprentice to ſome branch pilot for the term of five years at the leaſt, and that he is an inhabitant of this commonwealth; and ſhall moreover pay down to the examiners the ſum of five dollars. And if upon examination, ſuch perſon ſhall appear to be of ſufficient ſkill and ability, the ſaid examiners ſhall thereupon grant ſuch perſon a branch, and thenceforth he ſhall be reputed a lawful pilot.

Pilots to be arranged into three claſſes.

IV. ALL pilots within this commonwealth ſhall be arranged into three diſtinct claſſes, and diſtinguiſhed by the numbers, firſt claſs, ſecond claſs, third claſs; in order to effect which, in each branch hereafter to be granted, the ſaid examiners ſhall diſtinguiſh to what claſs the pilot obtaining ſuch branch ſhall belong. And if there be any pilots whoſe branches do not diſtinguiſh to which claſs the pilot holding it belongs, ſuch pilot ſhall on or before the firſt day of *May* next, ſurrender ſuch branch to the examiners, who are hereby empowered and directed to iſſue a new branch to ſuch pilot, without any additional fee or charge, diſtinguiſhing therein to what claſs ſuch pilot ſhall in future belong. And if any pilot holding ſuch branch ſhall not ſurrender the ſame by the time aforeſaid, he ſhall forfeit his branch, and ſhall not be capable of exerciſing the office of a pilot under the ſame.

To take charge of veſſels according to their claſſes.

V. THOSE pilots belonging to the firſt claſs ſhall alone have power to take the charge and pilotage of every veſſel of whatſoever burthen or deſcription. Thoſe belonging to the ſecond claſs, ſhall be confined to the charge and pilotage of ſuch veſſels, whoſe draught of water does not exceed twelve feet. And thoſe belonging to the third claſs, ſhall be confined to the charge and pilotage of veſſels, whoſe draught of water ſhall not exceed nine feet.

Removal out of the ſtate, a diſqualification.

VI. EVERY perſon obtaining a branch and afterwards removing into another ſtate, ſhall thereupon be diſqualified and incapable of acting as a pilot; and if any perſon ſo diſqualified ſhall preſume to act, he ſhall be liable to the ſame penalty for each offence, as is impoſed by this act, on ſuch as violate the terms of their branch and reſpective claſs; to be recovered in like manner.

Examiners may give to apprentices copies of their maſters branches.

VII. WHEN any branch pilot ſhall have an apprentice that in the opinion of the examiners ſhall be qualified to take charge and pilot a veſſel, it ſhall and may be lawful for the examiners to give to ſuch apprentice or apprentices a copy of his maſter's branch, and endorſe thereon the name of the pilot-boat and the port to which ſhe belongs, diſtinguiſhing the ability of the apprentice by claſſes as aforeſaid; after which it ſhall not be lawful for any branch pilot to take from ſuch apprentice any veſſel he may have in charge.

How pilots may be ſuſpended and removed.

VIII. IN caſe of the miſconduct or miſbehaviour in any pilot in the exerciſe of his buſineſs, it ſhall be lawful for the examiners to ſuſpend him; and if upon examination before the next ſucceeding county or corporation court, the court ſhall be of opinion that ſuch miſconduct or miſbehaviour is ſufficiently proved, they ſhall cauſe the ſame to be certified to the examiners, and the perſon ſhall thenceforth be altogether diſqualified, and ceaſe to act as a pilot.

Names of the boat and port

IX. EVERY pilot-boat, the owner whereof hath or ſhall obtain a branch in this commonwealth, ſhall have, ten feet below the head of his foreſail, and on each ſide thereof the

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name of ſuch boat and the port to which ſhe belongs, painted in letters of not leſs than nine inches in length.

to be painted on the fore-ſail.

X. NO perſon whatever ſhall be permitted to execute the buſineſs of a pilot, notwithſtanding he may have ſuch branch as aforeſaid, unleſs he, or the company to which he belongs, ſhall keep one ſufficient boat of eighteen feet keel at the leaſt, under the penalty of one hundred and fifty dollars for every veſſel ſuch pilot ſhall undertake to conduct; to be recovered with coſts in any court of record in this commonwealth, by the party ſuing for the ſame, to his or her own uſe; and if any perſon not having ſuch branch, and keeping ſuch boat as aforeſaid, ſhall preſume to take upon himſelf to conduct or pilot any veſſel coming from ſea, to or from any place or places hereafter mentioned, every ſuch perſon ſhall forfeit and pay the ſum of one hundred and fifty dollars; to be recovered with coſts in any court within this commonwealth, by the party ſuing for the ſame; and moreover ſuch perſon ſhall be liable for all damages occaſioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth by the party injured.

Pilots muſt keep ſufficient boats.

Penalty for piloting a veſſel without having a branch and boat.

XI. *PROVIDED*, That this act ſhall not be conſtrued to extend to hinder any perſon or perſons from aſſiſting any veſſel in diſtreſs, ſo as he or they ſhall deliver up ſuch veſſel to the pilot, who ſhall come on board and offer to undertake the conducting of her; for which ſuch aſſiſtant ſhall and may demand and receive from the ſaid pilot, half the fees allowed for pilotage by this act.

Proviſo as to veſſels in diſtreſs.

XII. NO more than four pilots ſhall be in partnerſhip under the penalty of three hundred dollars each, to be recovered with coſts by any perſon ſuing for the ſame.

No more than four pilots to be in partnerſhip.

XIII. EVERY maſter of a merchant veſſel coming from ſea, ſhall be obliged to receive the firſt pilot who offers below the *Horſe-ſhoe*, to conduct his veſſel, or ſhall pay him full pilotage to the firſt port, and ſhall continue the ſame pilot to his port of diſcharge; and every pilot cruizing or ſtanding out to ſea, ſhall offer his ſervices firſt to the veſſel neareſt land, or in moſt diſtreſs; and if any pilot not being hindered by ſickneſs, or any other lawful cauſe, ſhall refuſe to go on board any veſſel when required by the maſter, to execute his office, ſuch pilot or pilots in either caſe, ſhall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured ſixty dollars, and be liable to be ſuſpended by them for ſuch time as they ſhall think fit. Every veſſel having no pilot on board, and following another that has a pilot, ſhall pay ſuch pilot half fees.

Rules for maſters of veſſels and pilots.

XIV. IF any pilot ſhall negligently or careleſſly loſe any veſſel under his care, and be thereof convicted by due courſe of law, he ſhall forever after ſuch conviction, be incapable of acting as a pilot in this ſtate, and ſhall be alſo liable to pay all ſuch damages as any perſon or perſons ſhall ſuſtain by ſuch negligence or careleſſneſs, to be recovered in manner before directed.

Pilots loſing veſſels incapacitated, and liable to damages.

XV. THE following and no greater prices ſhall be taken or demanded for pilotage, that is to ſay; On *James* river for all veſſels coming from ſea, from *Cape Henry*, or *Lynhaven bay*, to *Hampton road*, ſix dollars and ſixty-ſeven cents; and for going out to ſea, five dollars; and for each foot depth of water they draw, from *Hampton road*, or *Sewell's point* to *Norfolk* or *Portſmouth*, fifty cents *per* foot; to *Sleepy-hole*, or *Look-out*, ſixty-one cents *per* foot; to *Pagan* creek, fifty cents *per* foot; to *James*-town, one dollar and twenty-one cents *per* foot; to *Martin's Brandon*, one dollar and thirty-three cents *per* foot; to *Flourde-Hundred*, one dollar and forty-two cents *per* foot; to *City-point*, or *Bermuda Hundred*, one dollar and eighty-three cents *per* foot; to *Four-Mile* creek, two dollars and twenty-one cents *per* foot; to *Oſberne's*, two dollars and fifty cents *per* foot; to *Warwick*, two dollars and eighty-one cents *per* foot; and to *Richmond*, three dollars *per* foot. On *York river*, coming from ſea, from the *Capes*, or *Lynhaven-bay*, to *York* town, ten dollars; and for going to ſea, ſix dollars and ſixty-ſeven cents; from *Back* river, or *Egg Iſland*, to *York* town, five dollars; from *York* town to *Weſt-point*, eighty-one cents *per* foot; to *Cumberland* one dollar *per* foot; to the higheſt landings on *Pamunkey* river, one dollar and twenty-five cents *per* foot; to *Shepherd's*, ninety-two cents *per* foot; to *Meredith's*, *Moore's*, or the higheſt lands on *Mattapony*, one dollar and nineteen cents *per* foot. From *Cape Henry* to any river on *Mockjack bay*, ten dollars; from the *Cape* to *Urbanna*, thirteen dollars and thirty-three cents; and for going from *Urbanna* to ſea, ten dollars; from *Urbanna* to *Tappahannock*,

Rates of pilotage.

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eighty-three cents *per* foot; to *Naylor's hole*, eighty-one cents *per* foot; to *Leeds's* or *Micou's*, one dollar and twenty-nine cents *per* foot; to *Port Royal*, one dollar and eighty-three cents *per* foot; to *Fredericksburg*, two dollars and twenty-nine cents *per* foot; from *Cape Henry* to *Pianketank*, thirteen dollars and thirty-three cents; from *Cape Henry* to *Smith's point*, on *South Patowmack*, coming from sea, twenty dollars; and for going out, sixteen dollars and sixty-seven cents; from *Smith's point*, to *Coan* or *Yeocomico*, fifty cents *per* foot; to *Machadock*, fifty-eight cents *per* foot; to upper *Machadock*, eighty-one cents *per* foot; to *Nangomy*, one dollar *per* foot; to *Boyd's hole*, one dollar and eight cents *per* foot; to *Quantico*, one dollar and twenty-one cents *per* foot; to *Occoquan*, one dollar and twenty-nine cents *per* foot; to *Piscattaway*, one dollar and fifty-eight cents *per* foot; to *Alexandria*, one dollar and eighty-nine cents *per* foot; to *Eastern branch*, two dollars *per* foot; and the same fees by the foot back again, and from the places aforesaid to the *Capes*. And where any master of a vessel shall give reasonable notice to the pilot, he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of one dollar and sixty-seven cents for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs by the informer.

Allowance where they are detained by the vessel's not being ready.

Pilots to carry with them, and produce a copy of this act.

XVI. AND to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act. And if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay sixty dollars to any person who shall sue for the same, to be recovered in any court within this state.

Officers of the customs not to permit a vessel to clear out till the pilotage is paid.

XVII. AND where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector or other officer of the customs, where the master of such vessel clears out; and the said collector or other officer of the customs, is hereby authorised to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and an half *per centum* for receiving money and paying the same to the pilot.

Examiners to be furnished with copies of this act.

XVIII. THE public printer shall furnish the examiners, on demand, with one hundred copies of this act; one of which copies signed by three of the said examiners, shall be delivered to each pilot.

Repealing clause.

XIX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

XX. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXVIII.

An Act reducing into one, the several Acts for regulating the Inspection of Pork, Beef, Tar, Pitch, and Turpentine.

[Passed the 26th of December, 1792.]

Preamble.

I. WHEREAS experience has shewn, that the establishment of proper regulations for the inspection of pork, beef, tar, pitch, and turpentine, have contributed to the sale and export of those articles:

II. *BE it therefore enacted by the General Assembly,* That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale or exported, until the same shall be packed or filled in barrels, under the regulations herein after expressed;

and the juſtices of every county court within this commonwealth, are hereby authoriſed and required, whenever application ſhall be made to any court for that purpoſe, and in the months of *Auguſt* and *September*, annually, to nominate and appoint in open court, one or more (not exceeding ſix in one county) fit and able perſon or perſons, reſiding in the ſame county, to inſpect the package, and weigh all pork and beef, and alſo to inſpect the filling of all tar, pitch, and turpentine, packed or filled for ſale or exportation in their reſpective counties; and the ſaid courts may appoint the ſaid perſon or perſons to be inſpectors of pork, beef, tar, pitch, and turpentine, if ſuch perſon appears to them to be duly qualified, or may appoint ſeveral inſpectors, as in their diſcretion ſhall ſeem beſt: And every perſon ſo appointed, ſhall before he enters upon the execution of that office, make oath before the juſtices of his county court, carefully to view, inſpect and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for ſale or exportation, and to the beſt of his ſkill and judgment, not to paſs or ſtamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, ſound, merchantable, and of the weight or gauge by this act directed, and faithfully to diſcharge the duty of his office, without favor, affection, or partiality; and ſhall conſtantly attend, upon notice, at ſuch, time and place as the owner of any of the ſaid commodities ſhall appoint, to inſpect the ſame within his county, but ſhall not inſpect or ſtamp any pork, beef, tar, pitch, or turpentine, imported from *Carolina*, until the ſame ſhall be brought to ſome public landing; and ſhall provide a ſtamp or ſtamps, with the firſt letter of his county, the letter V, for *Virginia*, the firſt letter of his own chriſtian name, and his whole ſurname at length, to be ſtamped on each barrel or caſk by him paſſed; and on every barrel of pork, the letter L, for large, or the letter S, for ſmall pork; and on the head of every barrel of tar, pitch, or turpentine, ſhall diſtinguiſh whether the ſame be tar, pitch, or turpentine; for which he may demand and take, for every barrel of pork or beef by him ſtamped, ſix cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer ſo appointed and ſworn, ſhall neglect his duty, or ſtamp any of the commodities aforeſaid, contrary to this act, he ſhall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which ſhall be found not duly qualified, or of leſs weight or contents than this act requires; and alſo one dollar for every neglect of his duty; recoverable by the informer, with coſts, before a juſtice of the peace of the county where ſuch offence ſhall be committed.

Inſpectors, how appointed, and qualified. Their duty. Their fees.

III. EVERY barrel of pork or beef, packed within this commonwealth for ſale or exportation, or imported here, ſhall contain at leaſt two hundred and four pounds nett, of good, clean, fat, ſound, merchantable meat, well ſalted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inſpector ſhall paſs or ſtamp any barrel of pork or beef, that does not appear to ſuch inſpector to be well ſalted and cured before the ſame is packed; and after the ſame has been inſpected, weighed, found merchantable, and paſſed by the inſpector or inſpectors, reſiding in the county where the ſame ſhall be packed or imported, every ſuch barrel ſhall be by him or them ſtamped or branded as aforeſaid, and certificate thereof given to the owner. And every barrel of tar, pitch, and turpentine, ſhall contain thirty-one gallons and a half, at the leaſt; and after the ſame ſhall be inſpected, gauged, found clean, and well and truly made merchantable, and paſſed by the inſpector or inſpectors of the county where the ſame ſhall be inſpected, ſhall be by him or them ſtamped or branded, and a certificate thereof given to the owners as aforeſaid.

Contents and quality of barrels of pork and beef. Of tar, pitch, and turpentine.

IV. ALL beef or pork expoſed to ſale or barter within this commonwealth in barrels, whether the ſame be packed here or imported from *Carolina*, or any other place, ſhall contain at leaſt two hundred and four pounds nett meat, allowing only two and a half *per centum* for ſhrinkage or loſs of weight. And every barrel of tar, pitch, or turpentine, expoſed to ſale or barter, whether made here or imported from any other place, ſhall contain at leaſt thirty-one gallons and a half, and be ſtamped as this act directs; and if any perſon ſhall preſume to ſell, or expoſe to ſale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of leſs weight or gauge, he or ſhe ſhall forfeit and pay to the informer four dollars for every ſuch barrel of pork or beef, and one dollar for every ſuch barrel of tar, pitch or turpentine, ſold or expoſed to ſale or barter in this commonwealth; recoverable with coſts by the informer, before any juſtice of the county where ſuch offence ſhall be committed, although the penalty ſhall exceed five dollars; and every juſtice of the peace, upon

Penalties for expoſing to ſale barrels of leſs weight or gauge. How recoverable.

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such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

Judgments for, may be appealed from.

V. *PROVIDED nevertheless,* That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Oath of seller or exporter of pork, beef, tar, pitch, or turpentine.

VI. EVERY seller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

Coopers duty in setting up barrels for pork, beef, tar, pitch, and turpentine.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit; barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five-eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

Fines, &c. how recoverable.

VIII. THE several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Repealing clause. Proviso.

IX. ALL acts and parts of acts coming within the purview of this act, shall be, and are hereby repealed. *Provided always,* That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement of this act.

X. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXIX.

An Act reducing into one, the several Acts to oblige Vessels, coming from foreign Parts, to perform Quarantine.

[Passed the 26th of December, 1792.]

I. WHEREAS it is necessary to compel vessels arriving in this country from foreign parts of the world, to perform quarantine in certain cases:

How rules for performing quarantine

II. *BE it enacted by the General Assembly,* That vessels, persons, and merchandize, coming or brought into any place within this commonwealth, from any other part of the

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world, whence the governor, with advice of his council, ſhall judge it probable that any plague or other infectious diſeaſe may be brought, ſhall be obliged to make their quarantine in ſuch place, during ſuch time, and in ſuch manner as ſhall be directed by the governor, by his order in council, notified by proclamation, to be publiſhed in the *Virginia* gazette: And until they ſhall be diſcharged from the quarantine, no ſuch perſons or merchandize ſhall come or be brought on ſhore, or go or be put on board of any other veſſel in the commonwealth, but in ſuch manner, in ſuch caſes, and by ſuch licenſe, as ſhall be permitted by the order; and the veſſels and perſons receiving goods out of her, ſhall be ſubject to the orders concerning quarantine, and for preventing infection, which ſhall be made by the governor and council, and notified as aforeſaid. ſhall be made and obſerved.

III. THE maſter of a veſſel coming from ſea, on board of which there ſhall be a perſon infected with the plague or other peſtilential diſeaſe, ſhall immediately make the caſe known to ſuch perſon as ſhall be appointed for the purpoſe, in the manner as is hereinafter directed, who ſhall give intelligence thereof with all ſpeed to the governor, that meaſures may be taken for ſupport of the crew, and precautions uſed to prevent the ſpreading of the infection; and the maſter ſhall not enter into any port, but ſhall remain in ſome open road, and ſhall avoid and hinder all intercourſe with other veſſels or perſons, nor ſhall any of the paſſengers or crew go on ſhore, until the order of the governor and council ſhall be received by the maſter. Whoſoever ſhall offend againſt this act, in either or any of the afore mentioned inſtances, ſhall be amerced the ſum of fifteen hundred dollars. Duty of maſters of veſſels having on board perſons infected with peſtilential diſeaſes.

IV. WHEN a place ſhall be infected with the plague or other peſtilential diſeaſe, or when the governor, with the advice of council, ſhall have notified by proclamation publiſhed in the *Virginia* gazette, that it is judged probable the plague or other peſtilential diſeaſe may be brought from any place, if a veſſel from ſuch place ſhall be coming into a port of the commonwealth, the perſon who ſhall be authoriſed to ſee quarantine performed, ſhall go off, or cauſe ſome other to go off to the veſſel, and at a convenient diſtance require the commander, to declare what is his name, at what place the cargo was taken on board, at what places the veſſel touched in her paſſage, whether any of thoſe places were infected with the plague or any other peſtilential diſeaſe, how long the veſſel had been in her paſſage, how many perſons were on board when ſhe ſet ſail, whether any on board during the voyage had been infected with the plague or other peſtilential diſeaſe, and who they are, how many died in the voyage, and of what diſtemper, what veſſels he or any of his company with his privity went on board of, and whether any of their company had been on board of his veſſel, in their voyage, and to what places thoſe veſſels belonged, and what are the contents of his lading. Enquiries to be made when veſſels come from infected places.

V. THE maſter of a veſſel coming from a place infected with the plague or other peſtilential diſeaſe, or having any perſon on board ſo infected, who ſhall conceal it, or who ſhall not give true anſwers to the queſtions ſo to be propounded to him, ſhall be amerced the ſum of fifteen hundred dollars. Penalty on the maſters for concealing it.

VI. THE maſter of a veſſel ordered to perform quarantine, when he ſhall be required, after his arrival at the place appointed, ſhall deliver to the officer authoriſed to ſee it performed there, the bills of health and manifeſts he ſhall have received during the voyage, with his log-book and journal; and refuſing or neglecting ſo to do, or to repair in convenient time after notice to the place appointed, or eſcaping from thence before quarantine performed, ſhall be amerced the ſum of fifteen hundred dollars. Duty of the maſter of a veſſel performing quarantine. Penalty for breach.

VII. PERSONS ordered to perform quarantine, if they ſhall eſcape, may be compelled to return, or if they ſhall attempt to eſcape, may be detained by the perſons who ſhall be authoriſed to ſee the quarantine performed, and who may employ force, and call for the aſſiſtance of others, if it be neceſſary for this purpoſe. Perſons eſcaping, to be compelled to return to the veſſel.

VIII. ANY perſon going on board a veſſel, or into a place under quarantine, without licenſe from the ſuperintendant thereof, may be compelled to remain there, in the ſame manner as he might have been if he had been one of the crew of the veſſel. The perſon thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, ſhall be amerced the ſum of three thouſand dollars. And any perſon embezzling, or wilfully damaging goods performing quarantine under his direction, ſhall be liable to the party injured for treble the value of the damages ſuſtained thereby. The veſſel, per- Various penalties.

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ſons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the ſuperintendant, ſhall be no further reſtrained by virtue of this act.

IX. A PERSON authoriſed to ſee quarantine performed, or a watchman upon any veſſel, place, or goods, under quarantine, deſerting his duty, or willingly permitting a perſon, veſſel or goods to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful licenſe, or a perſon empowered to give a certificate of the performance of quarantine, knowingly giving a falſe certificate, ſhall be amerced the ſum of three hundred dollars.

Forfeitures how recoverable and appropriated.

X. THE forfeitures inflicted by this act, ſhall be, one moiety to the uſe of the commonwealth, the other moiety to any perſon who ſhall ſue for the ſame; and ſhall be recovered by action of debt, in which action the defendant ſhall be ruled to give ſpecial bail.

Appointments of perſons to ſee quarantine performed, how to be made.

XI. THE governor, with the advice of council, ſhall be, and he is hereby authoriſed to appoint, and from time to time to fill up ſuch vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the Congreſs of the United States, as ports of entry and delivery, ſome ſuitable perſon to diſcharge the duties above deſignated, and to make ſuch compenſation as in their judgment may be ſufficient to each of the ſaid perſons, for any ſervices they may occaſionally perform in the ſame.

Expences of performing quarantine, how to be defrayed.

XII. THE governor in council, ſhall direct the auditor to iſſue his warrant on the treaſurer for ſuch ſums of money as may be neceſſary for the ſupport of the perſons performing quarantine, and thoſe appointed to ſee it performed, who is directed to pay the ſame out of the public money in his hands, appropriated to defray the contingent charges of government, and ſhall be repaid by the maſter or owner of the veſſel, after quarantine performed.

Repealing clauſe.

XIII. ALL and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

XIV. THIS act ſhall commence in force, from and after the paſſing thereof.

C H A P. CXXX.

An Act declaring the Puniſhment in caſe of Rape.

[Paſſed the 26th of December, 1792.]

Puniſhment in caſe of rape.

I. BE *it enacted by the General Aſſembly,* That if any man, from and after the commencement of this act, do raviſh a woman married, maid, or other, where ſhe did not conſent before nor after; or ſhall raviſh a woman married, maid, or other, with force, although ſhe conſent after, the perſon ſo offending, ſhall be adjudged a felon, and ſhall ſuffer death as in caſe of felony, without the benefit of clergy.

For carnally knowing a woman child under the age of ten years.

II. IF any perſon ſhall unlawfully and carnally know and abuſe any woman child under the age of ten years, every ſuch unlawful and carnal knowledge ſhall be felony, and the offender being duly convicted thereof, ſhall ſuffer as a felon, without benefit of clergy.

Repealing clauſe. Proviſo.

III. ALL and every ſtatute and ſtatutes, within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always,* that nothing in this act contained, ſhall be conſtrued to repeal any ſuch ſtatute or ſtatutes, for ſo much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commencement of this act.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

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CHAP. CXXXI.

An Act reducing into one, the several Acts for apprehending and securing Runaways.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly,* That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorised to receive him, or to the jailor of the county or corporation in which he was apprehended, and shall be entitled to one dollar and sixty-seven cents, and ten cents for every mile of such distance as he shall necessarily convey him, to be paid by the owner; and if such runaway be committed to the jail of any county or corporation, the keeper thereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse of his county or corporation: *Provided*, that if the owner or overseer of such runaway shall be an inhabitant of the county where such runaway is taken up, the taker-up shall, in that case, convey and deliver him or her to the owner or overseer, as aforesaid, and shall not be at liberty to carry such runaway to the jail of the county or corporation, as is before directed. Method of taking up runaways & conveying them to prison, or to their owners; Reward for apprehending them. Jailors to advertise descriptions of them. Not to be conveyed to prison if the owner lives in the county.

II. IF the owner claim not within two months thereafter, the sheriff or serjeant shall publish a like advertisement for three months in the *Virginia* gazette, and shall hire the runaway out during such time, and for such wages as his county or corporation court shall approve, having put an iron collar, stamped with the letter F round his neck, and out of his wages pay the reward for apprehending, and the expences incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who shall claim, and who having proved before the court of some county or corporation, or a justice of the peace of the county or corporation, in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff or serjeant, shall produce the clerk's, or the justice's certificate, of such proof made, and security given, proved by his own or another's oath, the runaway when shewn to him, to be the same that was so lost, and pay so much as the expences aforesaid shall exceed the wages. How to be employed when the owners do not claim them. Owners to prove their property;

III. THE runaway being a slave, after the end of one year from the last advertisement, shall be sold, and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth. Runaways to be sold, if not claimed within certain time.

IV. IF the runaway die in jail, the expences shall be defrayed by the public. Where they have crossed the bay.

V. THE runaway, if he shall have crossed the bay of *Chesapeake*, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff twenty dollars, and to the constable ten cents for every mile he shall necessarily travel in performing this duty.

VI. UPON any owner's neglecting or refusing to pay the above reward, the taker-up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed five dollars, or where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth. How rewards for apprehending them may be recovered.

VII. THE keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the same for releasement; and for every twenty-four hours keeping him or her in jail, seventeen cents, and no more; and if he, or any sheriff, serjeant, or jailor, shall demand or take any other or greater fee than is, or shall be allowed by law for runaways, he or they so offending, shall for every such offence, forfeit and pay Jailor's fees for committing, maintaining, and releasing them

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four dollars to the party grieved, and ſhall alſo refund and pay back all money received over and above the legal fees; recoverable with coſts, before any juſtice of the peace of the county or corporation where ſuch offence ſhall be committed.

Repealing clauſe. Proviſo.

VIII. ALL and every act and acts, or parts of acts, within the purview of this act, ſhall be, and are hereby repealed. *Provided*, that all rights and remedies, given by every ſuch act or acts, and all ſuch parts of acts, ſhall be, and remain as if this act had not been made.

Commencement of this act.

IX. THIS act ſhall commence in force, from and after the paſſing thereof.

CHAP. CXXXII.

An Act reducing into one, the ſeveral Acts concerning Servants.

[Paſſed the 26th of December, 1792.]

What ſervants ſhall ſpecifically perform their contracts

I. BE *it enacted by the General Aſſembly*, That all white perſons, not being citizens of any of the confederated ſtates of *America*, who ſhall come into this commonwealth under contract, to ſerve another in any trade or occupation, ſhall be compellable to perform ſuch contract, ſpecifically during the term thereof, or during ſo much of the ſame as ſhall not exceed ſeven years. Infants under the age of fourteen years brought in under the like contract, entered into with the conſent of their father or guardian, ſhall ſerve till their age of twenty-one years only, or for ſuch ſhorter term as the ſaid contract ſhall have fixed.

Maſter's duty to ſervants.

II. THE ſaid ſervants ſhall be provided by their maſter with wholeſome and ſufficient food, cloathing and lodging; and at the end of their ſervice, if they ſhall not have contracted for any reward, other than tranſportation, food, cloathing, and lodging, ſhall receive from him, one new and complete ſuit of cloathing, ſuited to the ſeaſon of the year; to wit, a coat, waiſtcoat, pair of breeches and ſhoes, two pair of ſtockings, two ſhirts, a hat and blanket.

Contracts for ſervice, how aſſignable.

III. THE benefit of the ſaid contract of ſervice, ſhall be aſſignable by the maſter to any perſon to whom the ſervant ſhall in the preſence of a juſtice of the peace, freely conſent that it ſhall be aſſigned, the ſaid juſtice atteſting ſuch free conſent in writing, and ſhall alſo paſs to the executors, adminiſtrators, and legatees of the maſter.

How lazy and diſorderly ſervants may be puniſhed. Shall compenſate by further ſervice, for time loſt, and for expences of bringing them home when abſconding.

IV. ANY ſuch ſervant, being lazy, diſorderly, guilty of miſbehaviour to his maſter, or in his maſter's family, ſhall be corrected by ſtripes, on order from a juſtice of the county, city, or corporation, wherein he reſides; or refuſing to work, ſhall be compelled thereto in like manner, and moreover ſhall ſerve two days for every one he ſhall have ſo refuſed to ſerve, or ſhall otherwiſe have loſt, without ſufficient juſtification. All neceſſary expences incurred by any maſter for apprehending and bringing home any abſconding ſervant, ſhall be repaid by further ſervice, after ſuch rates as the court of the county, city, or corporation, ſhall direct; unleſs ſuch ſervant ſhall give ſecurity, to be approved of by the court, for repayment in money, within ſix months after he ſhall be free from ſervice, and ſhall accordingly pay the ſame.

County courts to hear ſervants complaints.

V. IF any maſter ſhall fail in the duties preſcribed by this act, or ſhall be guilty of injurious demeanor towards his ſervant, it ſhall be redreſſed on motion, by the court of the county, city, or corporation, wherein the ſervant reſides, by immediate diſcharge from ſervice, if the injury were groſs, or by a ſpecific order for a change in his demeanor, and a diſcharge from ſervice, if ſuch order be diſobeyed.

Contracts between maſters and ſervants during ſervice, void.

VI. ALL contracts between maſter and ſervant during the time of ſervice, ſhall be void.

Proceedings on complaints of ſervants againſt maſters, and of

VII. THE court of every county, city, or borough, ſhall at all times receive the complaints of ſervants, being citizens of any one of the confederated ſtates of *America*, who reſide within the juriſdiction of ſuch court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient allowance of food, raiment, or lodging,

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and may hear and determine ſuch caſes in a ſummary way, making ſuch orders thereupon, as in their judgment will relieve the party injured in future; and may alſo in the ſame manner hear and determine complaints of maſters or miſtreſſes againſt their ſervants, for deſertion, without good cauſe, and may oblige the latter, for loſs thereby occaſioned, to make retribution, by further ſervices, after expiration of the times for which they had been bound.

maſters againſt ſervants.

VIII. IF any ſervant ſhall, at any time, bring in goods or money, or during the time of their ſervice, ſhall, by gift or any other lawful means, acquire goods or money, they ſhall have the property and benefit thereof to their own uſe. And if any ſervant ſhall be ſick or lame, and ſo become uſeleſs or chargeable, his or her maſter or owner ſhall maintain ſuch ſervant until his or her whole time of ſervice ſhall be expired. And if any maſter or owner ſhall put away a lame or ſick ſervant, under pretence of freedom, and ſuch ſervant becomes chargeable to the county, ſuch maſter or owner ſhall forfeit and pay thirty dollars to the overſeers of the poor of the diſtrict, wherein ſuch offence ſhall be committed, to the uſe of the poor of the diſtrict; recoverable with coſts, by action of debt, in any county or corporation court of this commonwealth; and moreover ſhall be liable to the action of the ſaid overſeers of the poor at the common law, for damages.

Servants ſhall have the property of their effects.

Sick or lame ſervants may not be diſcharged.

IX. NO negro, mulatto, or *Indian*, ſhall at any time purchaſe any ſervant, other than of their own complexion; and if any of the perſons aforeſaid, ſhall, nevertheleſs, preſume to purchaſe a white ſervant, ſuch ſervant ſhall immediately become free, and be ſo held, deemed, and taken.

Who may not have white ſervants.

X. NO perſon whatſoever ſhall buy, ſell, or receive of, to, or from any ſervant, any coin or commodity whatſoever, without the leave or conſent of the maſter or owner of ſuch ſervant; and if any perſon ſhall preſume to deal with any ſervant, without ſuch leave or conſent, he or ſhe ſo offending, ſhall forfeit and pay to the maſter or owner of ſuch ſervant, four times the value of the thing ſo bought, ſold, or received; to be recovered with coſts, by action upon the caſe, in any county or corporation court of this commonwealth; and ſhall alſo forfeit and pay the further ſum of twenty dollars, to any perſon who will ſue for the ſame; to be recovered with coſts, by ſummons and petition, or receive on his or her bare back, thirty-nine laſhes, well laid on, at the public whipping-poſt, but ſhall nevertheleſs be liable to pay the coſts of ſuch petition and ſummons.

Penalty for dealing with ſervants without leave.

XI. IN all caſes of penal laws, where free perſons are puniſhable by fine, ſervants ſhall be puniſhed by whipping, after the rate of twenty laſhes for every eight dollars, ſo that no ſervant ſhall receive more than forty laſhes at any one time, unleſs ſuch offender can procure ſome perſon to pay the fine.

Puniſhment of ſervants for breach of penal laws.

XII.* EVERY ſervant upon expiration of his or her time, and proof thereof made before the court of the county where he or ſhe laſt ſerved, ſhall have his or her freedom recorded, and a certificate thereof under the hand of the clerk, which ſhall be ſufficient to indemnify any perſon for entertaining or hiring ſuch ſervant; and if ſuch certificate ſhall happen to be torn or loſt, the clerk, upon requeſt, ſhall iſſue another, reciting therein the loſs of the former. And if any perſon ſhall harbour or entertain a ſervant, not having and producing ſuch certificate, he or ſhe ſhall pay to the maſter or owner of ſuch ſervant, one dollar for every natural day he or ſhe ſhall ſo harbour or entertain ſuch runaway; recoverable with coſts, by action of debt, in any county or corporation court of this commonwealth. And if any runaway ſhall make uſe of a forged certificate, or after delivery of a true certificate to the perſon hiring him or her, ſhall ſteal the ſame, and thereby procure other entertainment, the perſon entertaining or hiring, ſhall not be liable to the ſaid penalty, but ſuch runaway, beſides making reparation for loſs of time and charges of recovery, ſhall ſtand two hours in the pillory, on a court day, for making uſe of ſuch forged or ſtolen certificate; and the perſon forging the ſame, ſhall forfeit and pay thirty dollars; one moiety to the commonwealth, and the other moiety to the owner of ſuch runaway, or the informer, recoverable with coſts, in any county or corporation court of this commonwealth; and on failure of preſent payment or ſecurity for the ſame within ſix months, ſuch offender ſhall receive thirty-nine laſhes on his or her bare back, well laid on, at the common whipping-poſt. And where a runaway ſhall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the *onus probandi* ſhall lie upon the party hiring ſuch runaway.

Servants when free ſhall have certificates thereof.

Penalty for harbouring ſervants without ſuch certificate.

Puniſhment of ſervants uſing forged or ſtolen certificates.

And of the perſons forging.

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Repealing clause. Proviso.

XIII. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement of this act.

XIV. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXXXIII.

An Act reducing into one, the several Acts for punishing Persons guilty of certain Thefts and Forgeries.

[Passed the 19th of December, 1792.]

Felony without benefit of clergy to counterfeit current coin, or to make or pass base coin.

I. BE *it enacted by the General Assembly*, That if any person shall counterfeit, aid, or abet in counterfeiting any coin made current in this commonwealth, or shall make, or assist, aid, or abet in making base coin, or shall pass any such counterfeit or base coin in payment, knowing the same to be counterfeit or base, every such person shall on legal conviction, suffer death without benefit of clergy.

To forge any deed, will, bond, note, receipt, &c.

II. IF any person shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly act, or assist in the false making, forging, or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any person whatsoever, or shall utter, or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, endorsement, or assignment of any bill of exchange, or promissory note for the payment of money, acquittance or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

To forge any certificate or warrant issued under authority of the United States, or of this state.

III. IF any person within this commonwealth, shall forge or counterfeit, alter or erase, any certificate or warrant, issued, or to be issued by any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, for the payment of money, or shall be aiding or assisting therein, or shall demand payment thereof, knowing the same to be forged, counterfeited, altered, or erased, or shall transfer any such certificate or warrant, knowing the same to be forged or counterfeited, altered, or erased; or shall forge or counterfeit, alter or erase, any certificate whatever, for the purpose of obtaining a settlement of money from any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, or shall be aiding or assisting therein, or shall require settlement thereon, or transfer the same, knowing it to be forged, counterfeited, altered or erased, he, or she so offending, and thereof legally convicted, shall suffer death without benefit of clergy.

To forge the stamp or receipt of any inspector of flour or hemp.

IV. IF any person whatsoever shall forge or counterfeit, alter or erase the stamp or receipt of any inspector of flour or hemp, or tender in payment any such forged or counterfeited, altered or erased receipt, knowing it to be such, and shall thereof be convicted, he or they shall be adjudged a felon, and suffer death as in the case of felony, without benefit of clergy.

To forge the stamp or receipt of any inspector of tobacco.

V. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall forge or counterfeit, alter or erase the stamp or receipt of any inspector or inspectors of tobacco, or shall cause or procure such stamp or receipt to be forged or counterfeited, altered or erased, or shall aid or assist in forging or counterfeiting, altering or erasing, such stamp or receipt, or shall pass or tender, or shall cause or procure to be passed or tendered, any such stamp or receipt in payment or exchange, knowing the same to have been forged, or counterfeited, altered or erased, or shall have in his or her custody, or possession, any inspector's stamp or receipt, which hath been altered or erased, knowing the same to have

been altered or erased, and shall not discover such altered or erased stamp or receipt to two justices of the peace, within five days after they or either of them shall have come to his or her possession, or shall export, or cause to be exported, any hogshead or cask of tobacco stamped with a forged or counterfeited stamp, or shall receive or demand, tobacco of an inspector upon any forged or counterfeited, altered or erased stamp or receipt, knowing such stamp or receipt to be forged or counterfeited, altered or erased.

VI. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by other means take from the possession or custody of another, any warrant from the register of the land-office of this commonwealth, to authorise a survey of waste and unappropriated lands; or who shall alter, erase, or aid, or assist in the alteration or erasement of any such warrant; or forge, or counterfeit, or aid, abet or assist, in forging or counterfeiting any written or printed paper purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same to be transferred or presented, for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered or erased, or forged or counterfeited: And he or she shall be adjudged a felon, and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist in fasely keeping or counterfeiting any instrument, stamping an impression in the figure and likeness of the seal officially used by the register of the land-office, or who shall have in his or her possession or custody, such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited.

To steal or forge any land warrant.

Or to counterfeit the seal of the register of the land-office.

VII. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by robbery take from the possession or custody of another, any loan-office certificate of the United States, or any of them, or any warrant of the governor, or other person exercising that function, or any certificate of the auditor for public accounts to the treasurer, authorising the payment of money, or shall present, or cause to be presented, such loan-office certificate at a loan-office of the United States, or any of them, for the discharge of the whole, or any part thereof, or such warrant or auditor's certificate at the public treasury for the payment thereof, knowing such loan-office certificate or warrant, or auditor's certificate, to have been stolen, or by robbery to have been taken from the possession or custody of another.

To steal or take by robbery any loan-office certificate of the United States, or any of them, or any warrant of the governor or auditor for payment of money.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided) shall be, and are hereby repealed. *Provided always*, that nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Repealing clause.

Proviso.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXIV.

An Act concerning Tithables; directing the Mode of laying and collecting the County Levy.

[Passed the 27th of December, 1792.]

I. BE *it enacted by the General Assembly*, That all male persons of the age of sixteen years and upwards, and all female slaves of the age of sixteen years and upwards, shall be, and they are hereby declared to be tithable, and chargeable for defraying the county levies and poor rates, except such only as the county courts may, by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes.

Who shall be deemed tithables.

II. *PROVIDED*, That nothing herein contained, shall be construed to extend to the governor for the time being, or to his domestic servants, or to the president, masters, scholars, or domestic servants of the college of *William* and *Mary*, or to the person of any or-

Persons exempted.

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dained minister, or to the person of any constable, so long as he continues in office, so as to charge them, or either of them as tithables, within the meaning of this act.

Lists of tithables to be taken by commissioners of the taxes.

III. THE commissioners of the tax within the several counties of this commonwealth, shall, and they are hereby required and empowered, at the same period in each year in which they are collecting lists of the taxable property in their respective districts, under the act, intituled, "*An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue,*" to demand from each person, being tithable, or having in his or her possession such as are tithable, a written list of such as are tithable persons in his or her family; which lists the said commissioners, respectively, shall arrange in an alphabetical table, and on or before the last day of *May*, annually, together with the vouchers taken by them, as aforesaid, return to the clerks of the courts.

Clerks to set up copies thereof in the courthouses.

IV. THE clerks of the several county courts, shall at their next court, after the table containing the list of tithables as aforesaid shall be returned to them, set up in the courthouse of their county, fair copies of such tables.

Masters of families, their agents or overseers, to give in lists of their tithables.

V. THE master or owner of a family, or in his or her absence, or non-residence at the plantation, his or her agent, attorney, or overseer, shall at the time appointed by this act, in a list under his or her hand, deliver or cause to be delivered, to the commissioner of the tax for that district, the names and numbers of all tithables abiding in, or belonging to his or her family, the ninth day of *March* preceding the time of delivering in such list; or the master or owner thereof, or in case of his or her absence or non-residence, the overseer, shall be adjudged a concealer of such and so many tithables as shall not be listed or given in; and for every tithable person so concealed, shall forfeit and pay ten dollars; one moiety for the use of the county, towards lessening the levy thereof, and the other moiety to the use of the informer; to be recovered by action of debt or information, in any court of record. And when any overseer shall fail to list the tithables on any plantation whereon he is overseer, the master or owner shall be subject to the payment of their levies, in the same manner as he would have been, if they had been listed. And if any commissioner of the tax shall not truly list and enter the names and numbers of his own tithables in that district or county, for which he is to return a list, he shall be adjudged a concealer, and for every tithable person so by him concealed and not listed, shall forfeit and pay twenty dollars, to be applied and recovered as aforesaid.

Penalty for neglect.

Proviso.

VI. *PROVIDED always*, That if any owner or overseer shall happen by sickness or otherwise to omit delivering his or her list to the commissioner of the tax at the time the same may be required, it shall be lawful for such person to send his or her list to the house of such commissioner at any time before he makes his return to the clerk of the county as aforesaid, which shall discharge him or her from the penalty aforesaid.

County levy when & how to be assessed.

VII. THE justices of the several counties within this commonwealth, shall, and they are hereby authorised and empowered, at their courts respectively, to be held in the month of *June* or *July*, annually, or as soon after as may be, if no court should be held in either of those months, to proceed to make up in their minutes, an account of all expences incurred by the said court under authority of any law, chargeable on the county and remaining unpaid, stating therein the sums due, for what, and to whom due, and all credits owing to the said county. When the balance due from the county is thus ascertained, by deducting the sums due to the county, from those owing by the county, the said justices shall proceed to levy and assess on the tithable persons in their respective counties, the amount of that balance in equal proportions. The sums due to the county, and the sum to be assessed on the tithables being added together, shall then be appropriated by the court, so as to shew the right of each county creditor, and the amount of his demand.

List thereof to be delivered to the collector.

VIII. THE clerks of the county courts respectively, shall within ten days after the levy has been apportioned by the court as aforesaid, deliver to the sheriff or collector, a list of the persons as aforesaid chargeable with the payment of levies, and the sum to be paid by each for his county rate, and also a list of the sums due to the said county, and of the persons from whom due; as also of the persons to whom the same ought to be paid, with the amount of their respective demands; the said sheriff or collector shall immediately proceed to collect from the persons chargeable therewith, the sums due to the said county, and the county rate settled as aforesaid, with the same powers and for the same commission, as in the

His duty, powers, and commission.

caſe of public taxes; and ſhall pay the ſame to the county creditors according to their reſpective demands.

IX. IF any ſheriff or county collector ſhall fail to account with and ſatisfy the county creditors as aforeſaid, the reſpective ſums levied for them or either of them within ſix months after the levy ſhall be laid, or ſhall fail to adjuſt and ſettle the account of his collection with the county within the ſaid ſix months, it ſhall and may be lawful for any county creditor who may be injured by ſuch delinquency, to obtain judgment againſt ſuch ſheriff or collector, his or their heirs, executors, adminiſtrators, or ſecurities, in the court of that county where the delinquency happened, upon giving ten days previous notice to ſuch delinquent ſheriff or collector, his or their heirs, executors, adminiſtrators, or ſecurities. And it ſhall and may be lawful, where ſuch ſheriff or collector fails to account with the county as aforeſaid, for the court of that county before whom he ought to account, to enter judgment againſt ſuch delinquent ſheriff or collector, for whatever ſhall appear to be due from ſuch ſheriff or collector, and award execution thereon, giving ſuch ſheriff ten days previous notice of ſuch proceeding.

Remedy againſt him for failing to account for and pay the money received.

X. THE court of each county ſhall, and they are hereby authoriſed and empowered, at the time of ſettling their county levy as aforeſaid, to appoint the ſheriff of their county, or any other perſon, collector of their county levies, taking from the perſon ſo appointed, a bond, in the penalty at leaſt of double the ſum to be collected, payable to the juſtices of the county ſo appointing him, with two or more reſponſible ſureties, conditioned for the faithful collection, accounting for, and paying the ſeveral ſums wherewith he ſhall be chargeable as ſheriff or collector of the county, in the manner directed by law.

County court to appoint the ſheriff, or any other, collector, and take bond with ſecurity of him.

XI. EACH commiſſioner of the tax, failing to take or return the liſt of tithables as directed by this act, ſhall forfeit and pay forty dollars; one moiety for the uſe of the county towards leſſening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

Penalty on a commiſſioner of the tax for not taking the liſt of tithables.

XII. IF any clerk of the county courts ſhall fail to publiſh in their courthouſes the liſt of tithables, as herein before is directed, or ſhall fail to deliver to the collector of the county levies, the liſts hereby required to be delivered to him, at the time and in the manner required by this act, ſuch clerk ſo omitting, ſhall for each offence, forfeit and pay the ſum of thirty dollars; to be applied and recovered as aforeſaid.

On the clerk for failing to publiſh the liſt.

XIII. EACH collector of the county levies appointed as aforeſaid by the court, may appoint one or more deputies to aſſiſt him in his collections, for whoſe conduct he ſhall be anſwerable, which deputies ſhall have the ſame power as the collector himſelf; and ſuch collector ſhall have the ſame remedy and mode of recovery againſt his deputies or either of them, and their ſecurities reſpectively, for any ſums of money, which by virtue of this act, ſuch collector may be ſubjected to the payment of, on account of the tranſactions of any of his deputies, as the collector himſelf is ſubject to by law.

Collectors may appoint deputies.

XIV. ALL acts, or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed: *Provided always*, that nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, penalties or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act.

Repealing clauſe. Proviſo.

XV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

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C H A P. CXXXV.

An Act for reducing into one, the ſeveral Acts of Aſſembly for the Inſpection of Tobacco.

[Paſſed the 29th of November, 1792.]

No tobacco to be exported, but in caſks, and inſpected.

I. BE *it enacted by the General Aſſembly,* That no tobacco ſhall be ſhipped or exported from this commonwealth, unleſs the ſame ſhall be packed in hogſheads or caſks, taken from ſome public warehouſe herein after mentioned, and received and inſpected according to the directions of this act.

Warehouſes eſtabliſhed.

II. PUBLIC warehouſes for the reception of tobacco purſuant to this act, ſhall be kept at the ſeveral places herein after mentioned, that is to ſay: In the county of *Accomack*, at *Pitt*'s landing, upon *Pocomoke*, at *Guildford*, and at *Pungoteague*, under one inſpection; in the county of *Caroline*, at *Roy*'s; in the county of *Dinwiddie*, at *Bolling*'s point, *Bollingbrooke*, and *Cedar* point; in the county of *Eſſex*, at *Hobb*'s *Hole*, at *Bowler*'s, and at *Layton*'s; in the county of *Fairfax*, at *Colcheſter*, *Alexandria*, and the Falls of *Patowmac*; in the county of *Glouceſter*, at *Portpotank*, and at *Deacon*'s neck; in the county of *Hanover*, at *Page*'s, *Crutchfield*'s, and *Meriwether*'s; in the county of *Cheſterfield*, at *Rocky Ridge*, *Oſborne*'s, at *John Bolling*'s, on the lands of *Jacob Rubſaman*, in the town of *Mancheſter*, to be called and known by the name of *Mancheſter*, on the lots of *Alexander* and *Peterfield Trent*, in the town of *Mancheſter*, diſtinguiſhed in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of *Trent*'s warehouſe, and on thoſe of *Edward Johnſon*, deceaſed, in the ſaid town, to be called and known by the name of *Johnſon*'s warehouſe; in the county of *Henrico*, at *Byrd*'s, *Shockœ*, and *Rockett*'s; in the county of *Iſle of Wight*, at *Smithfield*, and at *Fulgham*'s, under one inſpection; in the county of *King* and *Queen*, at *Shepherd*'s, at *Mantapike*, and at *Frazer*'s, in *King William*, under one inſpection, and at *Todd*'s in *King* and *Queen*, and at *Aylett*'s in *King William*, under one inſpection; in the county of *King George*, at *Boyd*'s *Hole*, and *Machodack*, under one inſpection, and at *Gibſon*'s, to be called and known by the name of *Gibſon*'s warehouſe; in the county of *Lancaſter*, at *Davis*'s and *Lowry*'s, under one inſpection, and at *Deep* creek and *Glaſcock*'s, under one inſpection; in the county of *Northumberland*, at *North* and *South Wicomico*, under one inſpection, at *Coan*'s, in the ſaid county, and at *Indian* creek in the ſaid county, and at *Dymer*'s in the county of *Lancaſter*, under one inſpection; in the county of *Middleſex*, at *Urbanna*, and at the place where *Kemp*'s warehouſe formerly ſtood up *Pianketank* river; in the county of *Nanſemond*, at *Milner*'s and *Suffolk*; in the county of *Northampton*, at *Cherryſtones* and *Naſwaddox*, under one inſpection; in the county of *New-Kent*, at *Littlepage*'s and the *Brick-houſe*; in the county of *Prince George*, at *Hood*'s, *Boyd*'s, *Davis*'s, and *Blandford*; in the county of *Prince William*, at *Quantico*, *Dumfries*, a place called *Rocks*, on *Qantico* creek, to be called and known by the name of *M'Rae*'s warehouſe, and in the town of *Newport*, on the lots of *Cuthbert Bullitt*, to be called and known by the name of *Bullitt*'s warehouſe; in the county of *Richmond*, at *Cat point*, and *Totuſkee*; in the county of *Surry*, at *Gray*'s creek, and *Low point*; in the county of *Stafford*, at *Falmouth*, at *Acquia*, and at *Dixon*'s; in the county of *Spotſylvania*, at *Fredericksburg*, and at *Royſton*'s; in the county of *Weſtmoreland*, at *Nomony*, at *Leeds*, and *Maddox*, under one inſpection; at *Yeocomico* and *Kinſale*, under one inſpection; at the *College Landing* in the county of *James City*, and at *York* town in the county of *York*; at *Hampton* in the county of *Elizabeth City*; in the county of *Botetourt*, on the lands of *William Crow*, at *Crow*'s ferry, to be called and known by the name of *Crow*'s warehouſe; in the county of *Hampſhire*, at the confluence of the north and ſouth branches of the river *Patowmac*, on the lands of *Thomas Creſap*, to be called and known by the name of *Creſap*'s warehouſe; and in the town of *Romney*, to be called and known by the name of *Romney* warehouſe; in the county of *Campbell*, at *Lynch*'s ferry, to be called and known by the name of *Lynch*'s warehouſe; in the county of *Fluvanna*, at the *Point* of *Fork*, on the lands of *David Roſs*, to be called and known by the name of *Rivanna* warehouſe; in the county of *Amherſt*, on the north ſide of *James* river, below *Swan*'s creek, on the lands of *Nicholas Cabell*, to be called and known by the name of *Swan* creek warehouſe; in the county of *Berkeley*, on the lands of *Abraham Shepherd*, near the town of *Mecklenburg*, to be called and known by the name of *Mecklenburg* warehouſe; on the lands of *William Barkſdale*, in the town of *Peterſburg*, to

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to be called and known by the name of *Barksdale*'s warehouse; on the lands of *Robert Bolling*, junior, in the said town, adjoining his present dwelling-house, to be called and known by the name of *West-hill* warehouse; on the lands of *Alexander G. Straghan*, in *High-street* in the said town, to be called and known by the name of *High-street* warehouse; on the lots of *Thomas Shore* and *George Wilson*, likewise in the said town, to be called and known by the name of *Westbrook* warehouse; and on the lands of *Elizabeth Spencer*, *Ann Swann Saunders*, and *Daniel Wooldridge* in the said town, to be called and known by the name of *Petersburg* warehouse; in the county of *Albemarle*, on the lands of *Bennett Henderson*, at the place called the *Shallows*, on the *Rivanna* river, to be called and known by the name of *Henderson*'s warehouse; and on the lands of *Wilson Cary Nicholas*, at the mouth of *Ballenger*'s creek, in the said county, to be called and known by the name of *Nicholas*'s warehouse; in the county of *Monongalia*, at *Morgan-town*, to be called and known by the name of *Morgan-town* warehouse; in the county of *Loudoun*, at the *Great Falls* of the *Patowmac*, to be called and known by the name of the *Great Falls* warehouse; in the county of *Cumberland*, on the lands of *John Woodson*, at *Carter*'s ferry, to be called and known by the name of *Woodson*'s warehouse; in the county of *Norfolk*, on the lands of *Thomas Veal*, in the town of *Portsmouth*, to be called and known by the name of *Portsmouth* warehouse; in the county of *Fairfax*, on the lands of *William Thornton Alexander*, in the town of *Alexandria*, to be called and known by the name of *Thornton*'s; in the county of *Amherst*, on the lands of *John Lynch*, at his ferry, to be called and known by the name of *Amherst* warehouse; in the county of *Halifax*, on the lands of *Richard Booker*, at *Booker*'s ferry, on the *Staunton* river, to be called and known by the name of *Booker*'s warehouse; in the county of *Buckingham*, on the lands of *John Horseley*, at the mouth of *Bent* creek, to be called and known by the name of *Horseley*'s warehouse.

Rents of warehouses.

III. THE rents of the several warehouses hereby established, shall be, and they are hereby established at the following rates: At *Pitt*'s and *Guildford*'s, thirty-three dollars and thirty-three cents; at *Pungoteague*, twenty-six dollars and sixty-seven cents; at *Cherrystones* and *Naswaddox*, twenty-six dollars, and sixty-seven cents; at *Hampton*, thirty-three dollars and thirty-three cents; at the *College Landing*, thirty-three dollars and thirty-three cents; and at all the other warehouses, there shall be allowed and paid for the rents for the same, twenty-five cents for every hogshead of tobacco that already has been or shall be received, inspected and delivered out of such warehouses respectively, except as herein after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein, more than twelve months, at the rate of five cents *per* month for each hogshead, to be paid by the shipper thereof, at the time of shipping the same.

Proprietors of warehouses to let them to the inspectors.

IV. WHERE the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively, and if any proprietor or owner shall refuse so to do, he shall forfeit and pay fifteen hundred dollars; and where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is, or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogsheads, which in their opinion will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such other conveniencies as shall be necessary; and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, husband, or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, and other conveniences, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney, or agent, will undertake the same,

County courts to direct the number and kind of new warehouses.

And take bond with security of the proprietor if he chooses to build and let them.

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then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney, or agent, shall refuse to undertake the same, or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney, or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being, shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon, such houses, funnels, and other conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices, or other persons, shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

If he refuses, the land to be paid for and the warehouses to be built at the expense of the public, and the rents to be paid to the treasurer.

Where warehouses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of *September* yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogsheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogsheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of *April*, in the ensuing year, erect, build, and completely finish, such and so many other strong, close and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses.

Court may order houses to be repaired or secured, and new houses built if necessary, by the proprietor or public.

VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be re-

Penalty on county courts for neglect.

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covered in the diſtrict court, with coſts, by action of debt, or information, againſt the juſtices jointly.

Houſes and other conveniences, not to be taken from proprietors.

Inſpectors not to keep any horſes, cattle, or hogs on the land.

VII. *PROVIDED always*, That nothing herein contained, ſhall be conſtrued to give power to the ſaid juſtices to take away the houſes, orchards, or other immediate conveniences of any proprietors of lands, for the purpoſes aforeſaid, nor to the ſaid inſpectors to keep any horſes, cattle or hogs, at any public warehouſes, except their riding horſes, upon the land appointed for ſuch warehouſes; and if any ſwine belonging to the ſaid inſpectors, or any of them ſhall be found at large upon the land appropriated for ſuch warehouſes, or the lands adjoining thereto, it ſhall be lawful for the proprietors of the ſaid lands, to kill, or cauſe to be killed or deſtroyed, all ſuch ſwine.

How proprietor may be reſtored to his former eſtate.

VIII. *PROVIDED alſo*, That where any houſes have been, or ſhall be built by the juſtices or other perſons, as aforeſaid, and the firſt proprietor of the land ſhall deſire to have the ſame again, ſuch proprietor, upon payment of ſo much money as ſhall be ſufficient to reimburſe the ſaid juſtices, or other perſon, the principal money expended for the purchaſe of the land and the building ſuch warehouſes, with lawful intereſt, deducting the rents received by the ſaid juſtices or other perſon, ſhall be reſtored to his former eſtate in the land whereon ſuch warehouſes are built, and ſhall receive the rents aforeſaid growing due for ſuch warehouſes: *Provided alſo*, That if any proprietor ſo as aforeſaid reſtored to his eſtate, ſhall neglect or refuſe to build and repair ſuch houſes, as the court ſhall think neceſſary, the juſtices ſhall again be ſeized of the fee-ſimple eſtate in ſuch land during the time ſuch place ſhall be made uſe of for a public warehouſe, and ſuch proprietor ſhall not have any benefit of the rents that ſhall hereafter become due.

But if he again fails to build or repair to be reveſted in the public.

Waſte or deſtruction of warehouſes, how to be puniſhed.

IX. ON complaint being made by the owner or owners of any of the warehouſes aforeſaid, to any juſtice of the peace in the county where ſuch warehouſe ſhall lie, againſt any perſon or perſons, for breaking, tearing, or committing any waſte or deſtruction of, or in ſuch warehouſe or warehouſes, it ſhall be lawful for ſuch juſtice, and he is hereby empowered and required to give judgment and award execution againſt the body or eſtate of ſuch offender, if found guilty, for all damages occaſioned by ſuch breaking, tearing, or waſte, or deſtruction, provided ſuch damages do not exceed the ſum of five dollars in his opinion; and if ſuch damages ſhall exceed that ſum, then it ſhall be lawful for ſuch owner or owners to commence and proſecute his or their action at law, againſt any ſuch offender in any court of record within this ſtate, in which the plaintiff ſhall recover coſts, although the damage ſhall be under ſeven dollars.

Scales and weights to be provided.

X. THERE ſhall be kept at every one of the ſaid warehouſes herein before appointed, and at all others hereafter to be appointed, a good and ſufficient pair of ſcales with weights to weigh fifteen hundred pounds at the leaſt, and a ſet of ſmall weights, the ſame that are or ought to be provided for the ſtandard weights of each county; and where ſuch ſcales and weights are not already provided, or now are or ſhall hereafter be worn out, or become unfit for uſe, the juſtices of the reſpective county courts wherein any of the ſaid warehouſes are or ſhall be, are hereby directed and required to provide the ſame, with all convenient ſpeed; and the treaſurer for the time being is hereby empowered and required to pay the purchaſe money out of the public money in his hands ariſing from the inſpection of tobacco, and moreover the ſaid juſtices are hereby required and directed, twice in every year at leaſt, to appoint one or more of their number to view the ſaid ſcales, and examine and try the weights at the ſeveral warehouſes by the ſtandard weights of the county; and if the ſaid ſcales and weights ſhall want repairing, or the weights be found deficient, or differing from the lawful ſtandard, the ſaid juſtices ſhall cauſe the ſame to be repaired and mended, and the weights made conformable to the ſtandard; and if the juſtice or juſtices ſo appointed, ſhall refuſe or neglect to do the ſame, the juſtice or juſtices ſo refuſing, ſhall forfeit and pay the ſum of one hundred and fifty dollars; and the charge of repairing and mending the ſaid ſcales and weights, and alſo for removing the ſtandard to the ſeveral warehouſes for trying the ſame, ſhall be paid by the inſpectors reſpectively, and be again allowed to them in their accounts with the treaſurer.

And tried and repaired twice a year.

Tobacco to be viewed by the inſpectors.

XI. ALL tobacco which ſhall be brought to any of the public warehouſes ſhall be viewed, inſpected and examined by two perſons to be thereunto appointed, who ſhall be called inſpectors, which ſaid inſpectors ſhall be appointed in the following manner, that is to ſay: The courts of the ſeveral counties within this ſtate, wherein any of the public

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Manner of appointing inspectors.

warehouses appointed by this act are established, shall, and they are hereby required, once in every year and no oftener, at their respective county courts held in the months of *August* or *September*, to nominate and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nominated and recommended for each inspection, the governor, with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor, with the like advice and consent shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor shall, and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case, the governor, with the advice and consent of the council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors, to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such, only in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

Additional inspectors to be appointed. When to act.

No inspector to take a reward for resigning. Penalty on giver and receiver.

XII. IF any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No justice of the peace recommended as an inspector to vote in recommendation. Inspector in office, recommended, to continue without new commission, but shall annually renew his bond for the due discharge of his duty.

XIII. *PROVIDED always*, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

Inspectors to give bond with security and take an oath.

XIV. EVERY person appointed, or to be appointed inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being, and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer, under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say:

The oath.

YOU shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any

tobacco that is not in your judgment ſound, well conditioned, merchantable, and clear of traſh, nor receive, paſs or ſtamp any tobacco hogſheads or caſks of tobacco contrary to the true intent and meaning of this act, nor refuſe any tobacco that in your judgment is ſound, well conditioned, merchantable, and clear of traſh, and that you will not change, alter, or give out any tobacco, other than ſuch hogſheads or caſks, for which the receipt to be taken, was given, but that you will in all things well and faithfully diſcharge your duty in the office of inſpector, according to the beſt of your ſkill and judgment, and according to the directions of this act, without fear, favor, affection, malice or partiality. So help you GOD.

Which oath ſhall be taken before the governor of this ſtate for the time being, before the diſtrict court, or in the court of the county wherein ſuch inſpector ſhall reſide, or the warehouſes at which he ſhall be appointed inſpector ſhall ſtand; but before any inſpector ſhall enter upon the execution of his office, he ſhall produce a certificate, if ſworn before the governor or diſtrict court, (as the caſe may be) of his having taken ſuch oath, which certificate ſhall be lodged with the clerk of the county where ſuch inſpector ſhall be; and if any perſon ſhall preſume to execute the office of inſpector before he ſhall have given ſuch bond, and taken ſuch oath as aforeſaid, he ſhall forfeit and pay two thouſand dollars.

Penalty for acting without qualifying.

XV. ALL inſpectors to be appointed by virtue of this act, ſhall conſtantly attend their duty at the warehouſe or warehouſes under their charge, from the firſt day of *October*, to the tenth day of *Auguſt*, yearly, except *Sundays*, and the holy days obſerved at *Chriſtmas*, *Eaſter*, and *Whitſuntide*, or when hindered by ſickneſs; and afterwards they or one of them ſhall conſtantly attend at the ſame, except on *Sundays*, to deliver out tobacco for exportation, until all the tobacco remaining there the ſaid tenth day of *Auguſt* ſhall be delivered: But no inſpector ſhall be obliged to view any tobacco between the ſaid tenth day of *Auguſt*, and the firſt day of *October*, except ſuch as remained in the warehouſe on the ſaid tenth day of *Auguſt*; and every inſpector neglecting to attend as aforeſaid, ſhall forfeit and pay to the party grieved, one dollar for every neglect, or ſhall be liable to an action upon the caſe, at the ſuit of the party grieved, to recover all ſuch damages as he or they ſhall have ſuſtained by occaſion of any ſuch neglect, together with his or their full coſts, at the election of ſuch party.

Time inſpectors are to attend.

Penalty for not attending.

XVI. AND that all perſons having tobacco at the public warehouſes, may have equal juſtice, the inſpectors ſhall enter in a book to be kept for that purpoſe, the marks and owners names of all tobacco brought to their reſpective warehouſes for inſpection as the ſame ſhall be brought in, and ſhall view and inſpect the ſame in due turn as it ſhall be entered in ſuch book, without favor or partiality; and ſhall uncaſe and break every hogſhead or caſk of tobacco brought them to be inſpected as aforeſaid; and if they ſhall agree that the ſame is good, ſound, well conditioned, merchantable, and clear of traſh, then ſuch tobacco ſhall be weighed in ſcales with weights of the lawful ſtandard, and the hogſhead or caſk ſhall be ſtamped in the preſence of the ſaid inſpectors, or one of them, with the name of the warehouſe at which inſpected, and alſo the tare of the hogſhead or caſk, and quantity of nett tobacco therein contained; and the inſpectors at ſuch warehouſes ſhall iſſue a receipt for each hogſhead of tobacco they ſhall paſs, if required by the owner; which receipt ſhall be in the form following, to wit:

Tobacco to be entered as brought in and viewed in due turn.

Each hogſhead to be uncaſed and viewed, & if found good, ſtamped, and receipt given.

River, Warehouſe

the day of , 17 ,

Sweet ſcented.									Oronoko.
Leaf.				Stemmed.					Leaf.
Marks.	No.	Groſs.	Tare.	Nett.	Groſs.	Tare.	Nett	Groſs.	Tare.	Nett.

Received of , hogſheads of crop tobacco, marks, numbers, weights, and ſpecies as per margin; to be delivered by us to the ſaid , or his order, for exportation, when demanded. Witneſs our hands.

Form of the receipt for crop tobacco.

AND no inſpector or inſpectors, ſhall under any pretence whatſoever, iſſue a receipt for any tobacco other than ſuch as ſhall be printed, in which the date ſhall be inſerted at full length. And if any inſpector or inſpectors, ſhall preſume to iſſue a receipt in any other manner than is hereby expreſſed, he or they, for every ſuch offence, ſhall forfeit and pay the ſum of three hundred dollars; to be recovered with coſts, by any perſon who may ſue for the ſame, in any court of record within this ſtate: Which receipts as aforeſaid, ſhall be furniſhed by the public printer, and at the public expence: But if the ſaid two inſpectors

Which is to be printed.

Where the

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Inspectors disagree concerning the quality of tobacco.

shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number, and weight of the hogshead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

What hands the inspectors shall keep.

Inspectors or their servants not to be concerned in picking tobacco.

Owner may pick refused tobacco, but if he refuses, the pickers shall do it.

XVII. WHEN any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad, but if he refuses or neglects so to do within two months of such refusal, the inspectors shall direct one or more of the pickers attending the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one twelfth part of the quantity saved; and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected, or to be erected at such warehouse, under the penalty of seven dollars for every failure, to the informer; recoverable with costs, before any justice of the county wherein such warehouse shall be. *Provided always*, That any picker refusing to pick and separate refused tobacco, when directed by an inspector, shall forfeit and pay five dollars, to the use of the owner of such tobacco; recoverable with costs, before any justice of the county or corporation.

Penalty on picker refusing to pick tobacco.

Pickers how to be appointed.

XVIII. THE courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate and pick such tobacco as shall be refused by the inspectors. And every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently, without fraud or embezzlement, sort and separate all such tobacco, as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors, shall employ him to pick; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, twenty-one cents per hogshead for opening, and one twelfth part of all the tobacco saved out of any refused hogshead by him picked, for his services in opening, sorting, and picking the same, and no more. And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking-house and prize, for the conveniency of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary; and every picker so removed, shall for ever after be rendered incapable of serving as picker at any public warehouse; *Provided* such picker hath ten days previous notice of such motion; and any person who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace, who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county, where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay four dollars for every such offence; to be recovered by the informer, to his own use, before any justice of the peace. *Provided*, That any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ

Their oath.

Allowance.

Duty.

How punished for misbehavior.

Penalty for picking without being so appointed, except by the proprietor, his hands or others.

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his own servants or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned, or any other penalty or forfeiture for so doing; and the inspectors shall issue receipts for all tobacco saved by picking, to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking, for his own use. And if any tobacco picked in any hogshead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors, by reason of its being bad, unsound, or not in good condition, the overseer, who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise; and the inspectors shall be obliged to keep an account of all tobacco so burnt.

Pickers not to prize up their tobacco saved by picking. Overseers liable for tobacco refused and burnt.

XIX. IF any inspector of tobacco shall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction, before any court of record, shall forfeit and pay two thousand dollars to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take or receive any greater fee or reward for his services, other than by law allowed, shall forfeit and pay, on conviction, to the person prosecuting, three hundred dollars, to be recovered in like manner, and shall for ever after be incapable of acting in any character at a public warehouse.

Penalty on inspector for being concerned with a picker as a partner, or receiving any thing from him. On a picker for the same, or for receiving more than the legal fee.

XX. WHERE any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors, or one of them, after they have viewed, examined and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco so received, be sweet scented, or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit:

R I V E R, No.

warehouse, the *day of* 17

RECEIVED of , *pounds of transfer tobacco, to be delivered on demand to him, or to his order, according to the directions of the act, intituled,* "An act for mending the staple of tobacco, and preventing fraud." Witness our hands.

Form of transfer receipts.

And shall bear date the day the tobacco for which the same is given shall be received and passed, and shall be current in all tobacco payments, according to the species expressed in the receipt, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay herein after mentioned, that is to say; *James* river below the mouth of *Appamattox*; *York* below *West-point*; *Rappahannock* below *Taliaferro's Mount*; or by the bay of *Chesapeake*; and shall be transferrable from one to another in all such payments, except as herein is excepted, and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hogshead of tobacco brought to any public warehouse and transferred, there shall be allowed by the inspectors thereof to the person bringing the same after the rate of four pounds of tobacco, for every hundred pounds of tobacco the said hogshead shall contain, for the cask, so as such allowance do not exceed thirty pounds of tobacco, provided the cask or hogshead is good, and of such dimensions as is herein after expressed; and the said inspectors shall, and they are hereby obliged to make every hogshead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of nett tobacco at the least; and for every hogshead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person shipping such hogshead, one dollar for inspection, and fifty-eight cents for prizing, and nails; which said sum of fifty-eight cents, the inspectors may retain in their hands for their own use, to reimburse them the expense and trouble of providing nails and prizing. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hogshead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so in proportion for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound

Their date & currency.

Allowance for cask.

Weight of tobacco prized in discharge of receipts.

One dollar for inspection and fifty-eight cents for prizing and nails. Allowance for cask & shrinkage.

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of tobacco for every hundred, for every month the ſame ſhall be unpaid after the ſaid allowance; ſo as ſuch allowance for ſhrinkage and waſting do not exceed in the whole ſix pounds of tobacco for every hundred. And if any inſpector or inſpectors, by whom any ſuch receipts for tobacco as aforeſaid ſhall be ſigned, ſhall refuſe or delay to pay and ſatisfy the ſame when demanded, every inſpector ſo refuſing or delaying, ſhall forfeit and pay to the party injured, double the tobacco ſo refuſed or delayed to be paid, to be recovered with coſts in any court of record within this ſtate, if the receipt or receipts ſo refuſed or delayed to be paid, exceed two hundred pounds of tobacco; and if the ſaid receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforeſaid ſhall and may be recovered before any juſtice of the peace of the county wherein the warehouſe ſhall be, at which the receipt or receipts ought to be paid.

Remedy againſt inſpectors.

How receipts are to be given for crop tobacco.

XXI. ALL tobacco brought to any of the ſaid warehouſes in hogſheads to be exported, on account, and for the uſe of the owner thereof, after the ſame ſhall have been received, examined, found to be good, and weighed, ſhall be ſtamped as herein before directed; and the ſaid inſpectors, or one of them, ſhall deliver to the perſon bringing the ſame, as many receipts, ſigned as aforeſaid, as ſhall be required for the number of hogſheads ſo brought and ſtamped, in which ſhall be expreſſed, whether the tobacco ſo received, be ſweet ſcented or Oronoko, ſtemmed or leaf, and whether the ſame be tied up in bundles or not; and where any hogſhead hath part leaf and part ſtemmed, ſhall ſignify the ſame at the bottom of the receipt; and they ſhall not mix ſtemmed and leaf tobacco in any hogſhead which they ſhall prize, and pay away in diſcharge of their transfer receipts; and for every hogſhead brought to any of the ſaid warehouſes, to be exported by land or by water out of this ſtate, there ſhall be paid to the inſpectors attending at ſuch warehouſes, by the exporter, at the time of demanding the ſame for exportation, the ſum of one dollar, and the owners of the tobacco ſhall find and provide nails ſufficient for ſecuring and nailing thereof; and where they ſhall fail ſo to do, the inſpectors at ſuch warehouſe, ſhall furniſh nails for the purpoſe aforeſaid, and ſhall be allowed and paid by the owner, thirteen cents for each hogſhead ſo ſecured. And if any inſpector or inſpectors, ſhall alter, change or deliver out any hogſhead of tobacco, other than the hogſhead for which the receipt for crop tobacco to be taken in, was by him or them given; or ſhall alter or change any ſuch tobacco, although no ſuch receipt ſhall have been given, ſuch inſpector or inſpectors ſhall forfeit and pay one hundred and fifty dollars for evey hogſhead ſo altered, changed or delivered out. And if any inſpector ſhall fail or refuſe to deliver any hogſhead of tobacco, when the ſame ſhall be demanded for exportation, ſuch inſpectors ſhall forfeit and pay to the owner thereof, double the value of the tobacco, which they ſhall ſo refuſe or fail to deliver. And all inſpectors ſhall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed ſuch tobacco, to give transfer receipts for the ſame, with an allowance of four *per centum* for the caſk; ſo as ſuch allowance do not exceed thirty pounds of tobacco for every caſk. *Provided*, that ſuch hogſhead ſhall contain, at leaſt, one thouſand pounds of nett tobacco, and not mixed leaf and ſtemmed. *Provided nevertheleſs*, that no inſpectors ſhall give their receipt or receipts for any transfer or crop tobacco, which ſhall be opened or picked by any picker legally appointed, until the proprietor of ſuch tobacco, or his or her agent, ſhall have firſt paid or tendered to ſuch picker, his lawful charges for opening or picking the ſame. And in the abſence of any ſuch picker, a payment, or tender to any of the inſpectors there attending, for the uſe of the picker, ſhall be as effectual as if made to ſuch picker in perſon. And if any inſpectors ſhall deliver their receipt or receipts for any ſuch tobacco, ſo opened or picked, before ſuch payment or tender be made, they ſhall be liable to ſuch picker for the amount of the ſame.

Inſpection tax of one dollar to be paid by the exporter.

Penalty on inſpectors changing tobacco,

or failing to deliver it when demanded.

To transfer crop tobacco.

Pickers to be paid before the receipts are delivered.

XXII. AND for reſtraining the undue practice of mixing traſh with ſtemmed tobacco, and preventing the packing of tobacco in unſizeable caſks: *Be it enacted*, that all ſtemmed tobacco not laid ſtraight, whether the ſame be packed looſe, or in bundles, ſhall be accounted unlawful tobacco; and that no tobacco packed in hogſheads, which exceed fifty inches in the length of the ſtave, or thirty-two inches at the head, within the crew, making reaſonable allowance for prizing, which allowance ſhall not exceed two inches above the gauge, in the prizing head, ſhall be paſſed or received; but the owner of ſuch tobacco, packed in caſks of greater dimenſions than before expreſſed, ſhall be obliged to repack the ſame in ſizeable caſks, at his own charge, before the ſame ſhall be received or ſtamped by thei nſpectors.

Stemmed tobacco to be laid ſtraight.

Size of tobacco hogſheads.

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XXIII. AND whereas many and great inconveniences have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same: *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse, without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of one hundred and fifty dollars for every hogshead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor thereof, if he or she shall prosecute within four months after the offence committed; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts or notes of credit for tobacco, to any person or persons, unless at the time of delivering the same, he shall have actually and *bona fide* received and passed tobacco, the property of him, her, or them, in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit twenty dollars for every hundred weight of tobacco such fictitious notes shall express, to any person who will sue for the same; recoverable by action of debt, in any court of record.

Penalty for delivering tobacco without an order from the proprietor.

And for issuing fictitious notes.

XXIV. THE owners of any transfer receipts, may, at any time before the sale of the tobacco contained in such transfer receipts, as hereinafter is directed, receive and mark hogsheads of tobacco to satisfy such receipts; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogsheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco; but the persons receiving such hogsheads shall pay to the inspectors one dollar and fifty-eight cents, for the inspection and nails for every hogshead, that is to say, fifty-eight cents down to the inspectors for their own use for nails and their trouble in prizing, and one dollar as inspection, when the tobacco is delivered. And the inspectors shall at the court held for their county in the month of *September* yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned: And after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and wasting, at public auction, at the door of the courthouse, between the hours of twelve and two; and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him; and the said treasurer shall account for the same to the General Assembly; and no inspector shall convert any tobacco so gained to his own use.

Inspector to give crop notes in exchange for transfer.

And at *September* court yearly give an account of, & sell tobacco for notes outstanding.

Also tobacco gained by allowance for cask and shrinkage.

XXV. ALL inspectors shall before the tenth day of *October*, in every year, account with the treasurer of this state upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspections, for every hogshead of transfer tobacco; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit:

To account with the treasurer upon oath, when and how.

WE A: B. *and* C. D. *do swear, that the account now produced, contains an exact state of all the tobacco shipped the preceding year from* *warehouse, all taxes received, or due for the same, also all tobacco gained at the said inspection by any means whatsoever.* So help us GOD.

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And the juſtice of the peace before whom they are ſworn, ſhall, and he is hereby required, to certify on the ſaid account, that they have taken this oath.

To return an account annually of tobacco ſhipped.

XXVI. THE ſeveral inſpectors of tobacco in this ſtate, ſhall annually, at the time of ſettling their accounts with the treaſurer, deliver to him an account, upon oath, of all the tobacco ſhipped from their reſpective warehouſes within the year preceding, containing the number of hogſheads or caſks ſent on board each ſhip or veſſel reſpectively; and every inſpector failing therein, ſhall forfeit and pay the ſum of one hundred and fifty dollars.

Proceedings where uninſpected tobacco is about to be exported by water.

XXVII. AND any juſtice of the peace of any county near the place where any ſhip or other veſſel ſhall ride, upon information made to him upon oath, by any free man, that there is good cauſe to ſuſpect any tobacco uninſpected, in caſk, bulk, or parcels, to be on board ſuch ſhip or other veſſel, ſhall, and he is hereby empowered and required to iſſue his warrant, directed to the ſheriff or any conſtable of his county; and the ſheriff or conſtable ſhall have full power and authority, and he is hereby required to enter and go on board of ſuch ſhip or other veſſel, to ſearch for, and ſeize ſuch tobacco, and the ſame being ſeized, ſhall be brought on ſhore and carried before the ſame, or any other juſtice, who ſhall cauſe the ſaid tobacco to be carried to the neareſt warehouſe, and there inſpected, and if paſſed, reſtored to the owner, in caſe he ſhall be innocent of the fraud; but if he ſhall appear to have been concerned in ſuch fraud, or if no owner ſhall claim within three months, the ſaid tobacco ſhall be ſold by the inſpectors, and the money ariſing from ſuch ſale be paid into the public treaſury, and accounted for to the General Aſſembly. And the commanding officer or ſkipper of any ſhip or veſſel, on board which ſuch tobacco is found, ſhall forfeit to the informer twenty dollars for every hundred weight, and ſo in proportion for a leſs quantity; to be recovered with coſts in any court of record, if it be five dollars or more. And if any maſter or commanding officer, or ſkipper, of any ſhip or veſſel, or any other perſon whatſoever, ſhall reſiſt the officer in the execution of any ſuch warrant, every ſuch maſter, commanding officer or ſkipper, ſhall forfeit and pay ſix hundred dollars; and every ſailor or other perſon ſo reſiſting, ſhall forfeit and pay eighty dollars. And if any action ſhall be brought againſt any juſtice of the peace, ſheriff or conſtable, for doing any thing in execution of this act, the defendant may plead the general iſſue, and give this act in evidence; and if the plaintiff ſhall be non-ſuited, or a verdict paſs againſt him, or a judgment on demurrer, the defendant ſhall recover double coſts.

Old tobacco to be ſold.

XXVIII. WHERE any tobacco hath remained, or ſhall hereafter remain undemanded in a public warehouſe two years after the ſame hath been, or ſhall be inſpected, the inſpectors ſhall advertiſe in the *Virginia* gazette for three weeks ſucceſſively, a liſt of the marks, numbers, and weights of ſuch tobacco, with the names of the perſons for whom it was inſpected; and if no owner appears to claim the ſame within three months, they ſhall at the next court to be held for the county in which ſuch warehouſe ſhall be, after the expiration thereof, and advertiſing as aforeſaid, deliver to the court the like liſt, which court is hereby empowered and required, to order the ſame to be publicly ſold at the courthouſe door, on a court day, to the higheſt bidder; the clerk of ſuch court ſhall tranſmit within three months to the auditor of public accounts, a liſt of ſuch tobacco ſo directed by the court to be ſold; and the money ariſing from the ſale thereof, ſhall be paid by the inſpectors to the treaſurer of this ſtate for the time being, who ſhall account for the ſame, from time to time, to the General Aſſembly. And if any perſon, having a right to any tobacco ſo ſold, ſhall prove his property therein, the ſaid treaſurer ſhall repay to ſuch perſon the money for which ſuch tobacco was ſold.

Inſpectors incapacitated for other offices.

XXIX. NO perſon taking upon himſelf the office of inſpector, ſhall during his continuance in that office, or until he hath obtained a *quietus* from the treaſury, be capable of being elected a member of either houſe of aſſembly, or ſhall preſume to intermeddle, or concern himſelf with an election of a member or members of either of the ſaid houſes, otherwiſe than by giving his vote, or ſhall endeavour to influence any perſon or perſons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor ſhall any inſpector by himſelf, or any perſon for him, be allowed to keep an ordinary, or houſe of entertainment, at or near the warehouſe where he is an inſpector; and every inſpector herein offending, ſhall be incapable of ſerving in that office; neither ſhall any inſpector during his continuance, be, or undertake to be a ſheriff, juſtice of the peace, collector of any public tax, other than what relates to any ſuch office, county le-

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vies, or poor rates, or any officers fees; nor ſhall directly or indirectly for himſelf, or for any other perſon, buy, or receive by way of barter, loan or exchange, any tobacco whatſoever, under the penalty of ten dollars, for every hundred weight of tobacco ſo bought or received. *Provided*, That nothing herein contained, ſhall be conſtrued to hinder any inſpector from receiving his rents in tobacco, which ſhall be firſt viewed, examined and ſtamped according to the directions of this act.

Penalty on inſpectors receiving other gratuity than their ſalaries and other legal allowances.

XXX. AND for the further and better direction of the inſpectors aforeſaid in their duty, *Be it enacted*, That no inſpector ſhall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in purſuance of this act, other than his ſalary and the other payments and allowances herein before mentioned and expreſſed; and if any inſpector ſhall take, accept, or receive any ſuch gratuity, fee or reward, ſuch inſpector being thereof convicted, ſhall forfeit and pay the ſum of three hundred dollars; to be recovered with coſts, by any perſon or perſons who ſhall inform and ſue for the ſame, by action of debt or information, in any court of record within this commonwealth, and moreover ſhall be diſabled from holding the office of inſpector during the continuance of this act. And if any perſon ſhall offer any bribe, reward or gratuity, to any inſpector for any thing by him to be done in purſuance of this act, other than the fees and allowances herein before directed, every perſon ſo offending, and being thereof convicted, ſhall for every ſuch offence, forfeit and pay the ſum of ſixty dollars; to be recovered in any court of record within this ſtate; one half of which forfeiture ſhall be to and for the uſe of ſuch inſpector refuſing ſuch bribe or reward, and the other half to the perſon who will inform and ſue for the ſame. And there ſhall be paid to each of the inſpectors appointed to attend, and attending the ſaid ſeveral warehouſes, the ſalaries hereinafter mentioned, that is to ſay:---At *Pitt's*, *Guildford*, and *Pungoteague*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Roy's*, two hundred dollars; at *Bolling's Point*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Bollingbrook's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Cedar-point*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Hobb's-hole*, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Bowler's*, one hundred dollars; at *Layton's*, one hundred dollars; at *Colcheſter*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Alexandria*, two hundred dollars; at the falls of *Patowmack*, one hundred and thirty-three dollars and thirty-three cents; at *Poropotank*, one hundred dollars; at *Deacon's Neck*, one hundred dollars; at *Page's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Crutchfield's*, two hundred dollars; at *Meriwether's*, two hundred dollars; at *Rocky-Ridge*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Oſborne's*, two hundred dollars; at *John Bolling's*, two hundred and thirty-three dollars and thirty-three cents; at *Mancheſter* warehouſe, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Trent's* warehouſe, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Johnſon's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Byrd's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Shockœ*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Rockett's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Smithfield* and *Fulgham's*, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at *Shepherd's*, one hundred dollars; at *Mantapike* and *Frazer's*, under one inſpection, one hundred and fifty dollars; at *Todd's* and *Aylett's*, under one inſpection, one hundred and fifty dollars; at *Boyd's-hole* and *Machodack*, under one inſpection, one hundred and fifty dollars; at *Gibſon's*, one hundred dollars; at *Davis's* and *Lowry's*, under one inſpection, one hundred dollars; at *Deep* creek and *Glaſscock's*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at North and South *Wicomico*, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at *Coan's*, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Indian* creek and *Dymer's*, under one inſpection, one hundred dollars; at *Urbanna*, one hundred dollars; at *Kemp's* warehouſe on *Pianketank*, fifty dollars; at *Milner's*, one hundred and thirty-three dollars and thirty-three cents; at *Suffolk*, one hundred and thirty-three dollars, and thirty-three cents; at *Cherryſtone's* and *Naſwaddox*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Littlepage's*, one hundred and ſixteen dollars and ſixty-ſeven cents; at the *Brick-houſe*, one hundred dollars; at *Hood's*, one hundred dollars; at *Boyd's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Davis's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Blandford*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Quantico*, two hundred and thirty-three dollars and thirty-three cents; at *Dumfries*, two hundred and thirty-three dollars and thirty-three cents; at *M'Rae's*, two hundred dollars; at

And on the perſon offering a bribe.

Inſpectors ſalaries.

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Bullitt's, one hundred and sixty-six dollars and sixty-seven cents; at *Cat point*, one hundred dollars; at *Totuskee*, ond hundred dollars; at *Gray's* creek, one hundred and sixteen dollars and sixty-seven cents; at *Low point*, one hundred and thirty-three dollars and thirty-three cents; at *Falmouth*, two hundred dollars; at *Acquia*, one hundred and sixty-six dollars and sixty seven cents; at *Dixon's*, two hundred dollars; at *Fredericksburg*, two hundred and thirty-three dollars and thirty-three cents; at *Royston's*, two hundred and thirty three dollars and thirty-three cents; at *Nomony*, one hundred dollars; at *Leed's* and *Mattox*, under one inspection, one hundred and sixty-six dollars and sixty-seven cents; at *Yeocomico* and *Kinsale*, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at the *College Landing*, eighty-three dollars and thirty-three cents; at *York-town*, eighty-three dollars and thirty-three cents; at *Hampton*, fifty dollars; at *Crow's* warehouse and at *Cresap's*, the inspectors shall receive for each hogshead by them inspected, the sum of sixty-seven cents, seventeen cents whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use; at *Romney*, fifty dollars; at *Lynch's*, two hundred and twenty dollars; at *Rivanna*, one hundred and thirty-three dollars and thirty-three cents; at *Swan* creek, one hundred and thirty-three dollars, and thirty-three cents; at *Mecklenburg*, one hundred dollars; at *Barksdale's*, two hundred and sixty-six dollars and sixty-seven cents; at *West-hill*, two hundred and sixty-six dollars and sixty-seven cents; at *High-street*, two hundred and sixty dollars and sixty-seven cents; at *West-brook*, two hundred and sixty-six dollars, and sixty-seven cents; at *Petersburg*, two hundred and sixty-six dollars and sixty-seven cents; at *Henderson's*, one hundred and thirty-three dollars and thirty-three cents; at *Nicholas's*, one hundred and thirty-three dollars and thirty-three cents; at *Morgan-town*, fifty dollars; at *Great Falls*, one hundred and thirty-three dollars and thirty-three cents; at *Woodson's*, one hundred and sixty-six dollars and sixty-seven cents; at *Portsmouth*, one hundred dollars; at *Thornton's*, one hundred and sixty-six dollars and sixty-seven cents; at *Amherst*, one hundred dollars; at *Booker's*, one hundred and thirty-three dollars and thirty-three cents; at *Horsley's*, one hundred dollars.

If the warehouse does not [illegible] salaries, the deficiency [illegible] the tobacco.

XXXI. *PROVIDED always*, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

XXXII. THE inspectors at the several warehouses, established above the falls of *James* river, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the batteau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hogshead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided always*, that nothing in this act contained, shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

Copies thereof and of certificates of payment of duties to be sent to the auditor. Owner may have his tobacco reinspected and weigh-

XXXIII. THE owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty-fifth day of *October*, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be

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lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to reinspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

XXXIV. THE appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and prescribed for other warehouses heretofore established. And the inspectors at each of the said warehouses, may demand and receive for each hogshead by them inspected, the sum of sixty-seven cents, seventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, that no person shall be obliged to receive any notes passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into.

The warehouses to be under the same regulations as others.

Allowance to the inspectors and for warehouse rent. Tobacco inspected there, shall not be a tender in certain contracts.

XXXV. THE inspectors of the several warehouses within this commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand the same, by delivery of the notes or otherwise, for the purpose of manufacturing it, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their having, before some court of record within this commonwealth, entered into a bond with sufficient security, in the penalty of fifteen hundred dollars, payable to the governor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause, or suffer to be exported, either by land or water, any tobacco received by him or them, for the purpose of manufacturing, until it has been manufactured.

Inspectors to deliver tobacco to be manufactured.

XXXVI. AND for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them; *Be it enacted*, that any two justices of the peace shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governor and council, for their determination. And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatem*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the governor and council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be forever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expences in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors, for the recovery of all damages and expences which he or they shall have sustained or been put to by such prosecution and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

Method of detecting inspectors who do not do their duty.

XXXVII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified

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said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt or destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Exception.

Warehouses not to be used for private purposes.

XXXVIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this commonwealth.

No fire to be kindled in or near a warehouse.

XXXIX. IF any person hereafter shall make any fire within any public warehouse, or without doors, within one hundred yards of such warehouse, other than in the inspectors counting-room, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

Nor wooden chimnies built near them.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

XL. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hogshead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hogshead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorised by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Method to be taken where receipts are lost.

XLI. IF any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt within twelve months after notice given of the loss of such receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. The bond so taken shall be assignable by the inspectors taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspectors from any claim or demand against them by virtue of the original receipt. *Provided nevertheless*, That if the principal and security should at the time of taking such bond be insufficient, that in that case the inspectors shall be responsible for the value of the tobacco to the person producing such original receipt. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

New inſpectors to give their predeceſſors a receipt for the tobacco in the warehouſes.

XLII. WHEN any new inſpectors ſhall be appointed at any of the ſaid warehouſes, ſuch inſpectors ſhall, and they are hereby required, to give to the perſon or perſons whom they ſhall ſucceed, a receipt with his or their hands ſubſcribed, containing the numbers, marks, groſs, tare, and nett weight, of all and every hogſhead or caſk of tobacco which ſhall be then remaining at the warehouſe or warehouſes, at which they are appointed inſpectors, with the delivery and payment of which ſaid hogſheads or caſks of tobacco ſo remaining, he or they ſhall from thenceforth be chargeable and liable; but he or they ſhall in no wiſe be accountable or anſwerable for the loſs of weight, or for quality of tobacco contained in any hogſhead or caſk, for which receipt was by him or them ſo as aforeſaid given. And if any hogſhead or caſk of tobacco ſhall hereafter be received by any perſon or perſons whatſoever, and delivered out of any of the ſaid warehouſes for exportation by the inſpector or inſpectors attending the ſame, ſuch inſpector or inſpectors from the time of ſuch delivery, ſhall be for ever diſcharged and acquitted from all actions, coſts, and charges, for, or by reaſon of the tobacco contained in any ſuch hogſhead or caſk being unſound and unmerchantable, or of leſs quantity than the receipts given for the ſame ſhall ſpecify; any thing herein before contained to the contrary, notwithſtanding.

Inſpectors diſcharged on the delivery of tobacco.

Prizes to be uſed in turn for prizing tobacco picked or light hogſheads.

XLIII. AND when any prized tobacco ſhall be brought to any public warehouſe, in order to be ſhipped on freight or otherwiſe, and the inſpectors there attending ſhall refuſe to paſs ſuch tobacco, ſuch as ſhall be bad and unmerchantable, ſhall be picked and ſeparated from the reſt; or where any light crop tobacco ſhall hereafter be brought to any of the ſaid warehouſes, in either caſe, the ſaid inſpectors, if required, ſhall permit the owner or other perſon bringing ſuch tobacco, to make uſe of one or more of their prizes, for the repacking, prizing, or making heavier ſuch tobacco, without fee or reward; and if there ſhall be ſeveral hogſheads of tobacco belonging to ſeveral owners, to be picked, repacked, or prized at any public warehouſe, the owner or other perſon bringing the ſame, whoſe tobacco ſhall be firſt viewed and refuſed, or found light, ſhall be firſt permitted and allowed to make uſe of ſuch prize or prizes for the purpoſes aforeſaid; and no inſpector ſhall take or convert to his own uſe, or otherwiſe diſpoſe of, any draughts or ſamples of transfer or crop tobacco, but the ſame, if fit to paſs, ſhall be put into the hogſhead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught ſo taken away, and not returned as aforeſaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own uſe, and the other moiety to the uſe of the proprietor of ſuch tobacco, before any juſtice of the peace of the county wherein ſuch offence ſhall be committed. And all inſpectors, if required, ſhall alter the mark and number of any hogſhead of reprized tobacco for which they have before given a receipt; and for preventing confuſion and miſtakes, ſhall keep a waſte book, in which ſhall be entered the marks and numbers of all hogſheads of tobacco received by them, and another book in which ſhall be entered the marks, numbers, and weights thereof, when the ſame ſhall be delivered out by them; and all inſpectors, when required, ſhall be obliged to prize any light hogſhead of tobacco under one thouſand pounds, ſo as to make it up the weight one thouſand pounds nett, but ſhall receive the ſame fee upon ſuch hogſhead, as for transfer tobacco. And when any tobacco ſhall be brought to the warehouſe by the overſeer of the owner thereof, the inſpectors ſhall give receipts in the name of the owner, and not of the overſeer.

Penalty for taking and uſing draughts.

Inſpectors to prize light crop tobacco on requeſt.

To give notes in the name of the owner.

To give receipts for tobacco when brought.

XLIV. THE inſpectors of tobacco at the ſeveral warehouſes within this ſtate, ſhall immediately on the delivery of every hogſhead of tobacco at the warehouſe whereof they are inſpectors, give a receipt for ſuch tobacco, if required by the proprietor or perſon bringing the ſame to the ſaid warehouſes, expreſſing therein that the ſame is for uninſpected tobacco; every inſpector refuſing ſo to do, ſhall forfeit and pay to the owner of ſuch tobacco, the ſum of four dollars.

The oaths of maſters of veſſels intending to load with tobacco.

XLV. EVERY maſter, mate, or boatſwain of any ſhip or other veſſel, which ſhall arrive in this ſtate in order to load tobacco, ſhall, before the ſaid ſhip or other veſſel be permitted to take on board any tobacco whatſoever, make oath before the collector of the port wherein ſuch ſhip or other veſſel ſhall arrive (which oath the ſaid collector is hereby empowered and required to adminiſter) that they will not permit any tobacco whatſoever to be taken on board their reſpective ſhips or veſſels, except the ſame be packed in hogſheads or caſks, ſtamped by ſome inſpector legally thereunto appointed; which oath they ſhall ſubſcribe in a book to be kept by the ſaid collector for that purpoſe; and if any maſter ſhall

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cauſe any perſon who is not really and *bona fide* mate or boatſwain, to come on ſhore and take ſuch oath, he ſhall, for the ſaid offence, forfeit and pay fifteen hundred dollars.

No tobacco to be taken on board any veſſel in bulk or parcels. Penalties.

XLVI. IF any perſon not being a ſervant or ſlave, taking upon himſelf to carry any tobacco to or from any of the ſaid warehouſes in his boat or other veſſel for hire, ſhall take on board, or permit, or ſuffer to be taken on board, any tobacco whatſoever, in bulk or parcels, ſuch tobacco ſhall not only be forfeited, and may be ſeized by any perſon or perſons whatſoever, but the maſter or ſkipper offending herein, ſhall forfeit and pay fifty cents for every pound weight of ſuch tobacco; and the maſter or commander of any ſhip or veſſel, wherein any tobacco in bulk or parcels ſhall be found, ſhall over and above the forfeiture thereof, be ſubject and liable to the ſame penalty; to be recovered, if it doth not exceed twenty dollars, before any two juſtices of the peace of any county near the place where ſuch ſhip, boat, or other veſſel ſhall lie; and if it exceeds twenty dollars, in any court of record by action of debt, wherein the plaintiff ſhall recover his coſts. And if any ſervant, or other perſon employed in navigating any ſuch boat, or other veſſel, ſhall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforeſaid, he ſhall pay the ſum of twenty dollars, to be recovered as aforeſaid; and if ſuch ſervant or other perſon, ſhall be unable to pay the ſaid ſum, he or they ſhall, by order of ſuch juſtice, receive on his bare back, thirty-nine laſhes well laid on; and if ſuch boat or other veſſel be under the care and management of a ſervant who cannot pay and ſatisfy the penalty ſo to be inflicted on the maſter or ſkipper offending as aforeſaid, then ſuch ſervant, and every other perſon employed under him, unable to pay the ſaid penalty, who ſhall be guilty of conniving at, or concealing the taking on board tobacco in bulk or parcels, as aforeſaid, ſhall, upon every complaint, and proof thereof made to a juſtice of the peace, have and receive, by order of the ſaid juſtice, thirty-nine laſhes well laid on; and if any ſervant ſhall again be entruſted with the care and management of any boat or other veſſel, and ſhall be convicted a ſecond time of taking or receiving on board the ſame, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of ſuch ſervant ſhall forfeit and pay the like ſum of fifty cents *per* pound for every pound weight of ſuch tobacco ſo taken or received on board in bulk or parcel, and ſhall alſo forfeit and pay two dollars for every day ſuch ſervant ſhall thereafter be employed as ſkipper or maſter of any boat or veſſel to him belonging; to be recovered and applied as aforeſaid. *Provided nevertheleſs*, That it ſhall be lawful for the proprietor or proprietors to break any hogſhead of tobacco after it ſhall be paſſed and ſtamped, and to repack and prize the ſame into ſmall caſks for the convenience of ſtowing, provided it be done at the warehouſe where the ſame was inſpected and weighed, marked, and ſtamped; and the inſpectors ſhall particularize all ſuch caſks in their manifeſts to be given to the maſters or ſkippers of the veſſel in which ſuch tobacco be laden. *Provided always* that nothing herein before contained, ſhall be conſtrued to prohibit any perſon from carrying, or cauſing to be carried to the ſaid warehouſes, in any boat or other veſſel, any tobacco in bulk or parcels, for the payment of his or her levies, debts or other duties, or to prohibit any perſon to put or take on board any boat or other veſſel, any hogſheads or caſks of tobacco, to be water-borne to any warehouſe appointed by this act, ſo as the ſame be not carried out of the collectors or other officers of the cuſtoms diſtrict wherein the ſaid tobacco ſhall be made, nor to prohibit the owner of any tobacco to tranſport his crops, or any part thereof, in hogſheads or caſks, from one plantation to another, for the better handling and managing thereof, nor any purchaſer of tobacco from bringing the ſame by water, to be repacked, ſorted, ſtemmed, or prized, before the ſame be carried to the ſaid warehouſes, ſo as ſuch laſt mentioned tobacco be packed in hogſheads or caſks; but no tobacco on any pretence whatſoever, ſhall be carried or tranſported by water, to be inſpected out of the diſtrict limited and appointed for the ſeveral collectors or other officers of the cuſtoms of this ſtate, wherein the ſame ſhall be made, or being ſo carried, ſhall not be inſpected or paſſed by any inſpectors, knowing the ſame to be made out of ſuch diſtrict, upon pain of forfeiting by the owner of ſuch tobacco, and the inſpectors who ſhall paſs the ſame, ten dollars for every hogſhead, to the informer. *Provided nevertheleſs*, That it ſhall and may be lawful for the inhabitants of *Fleet's Bay*, on the ſouth ſide of *Indian* creek, in the county of *Lancaſter*, to carry their tobacco by water to the public warehouſe at *Indian* creek, and the inhabitants at *Warraſqucake Bay*, and the parts adjacent, to carry their tobacco to be paſſed at any warehouſe in the upper diſtrict of *James* river.

Proviſo's for ſundry purpoſes.

Relanded tobacco muſt be delivered at

XLVII. IF the ſkipper of any boat or veſſel, or the perſon or perſons to whom the care and management thereof ſhall be entruſted, ſhall land or put on ſhore any hogſhead, caſk,

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or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hogshead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hogshead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hogshead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. ***Provided*** *also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hogshead or cask of tobacco so damnified, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed, and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

Some public warehouse.

Penalty for landing it elsewhere, or for opening hogsheads and taking out tobacco.

Exception as to tobacco landed in distress of weather.

Provision as to damaged tobacco.

XLVIII. AND to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hogshead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogsheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogsheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons re-landing such tobacco, twenty-five cents for every hogshead so re-landed, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Inspectors to keep books, &c.

And deliver manifests with each load of tobacco.

Tobacco may be relanded or put on board other ships.

XLIX. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogshead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

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account of the marks, numbers, tare and nett weight of each respective hogshead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty-fifth day of *October*, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein, shall forfeit and pay the sum of three hundred dollars for every such failure.

Penalties how to be recovered.

L. ALL the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs by action of debt or information in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

When warehouses shall be discontinued.

LI. IN case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

Public printer to furnish inspectors with copies of this act.

LII. THE public printer shall furnish one copy of this act to the inspectors of each of the warehouses herein mentioned.

Inspectors exempted from militia duty.

LIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Former acts repealed. Proviso.

LIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this act

LV. THIS act shall commence and be in force from and after the passing thereof.

C H A P. CXXXVI.

An Act declaring what shall be Treason; for punishing certain Offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.

[Passed the 26th of December, 1792.]

Preamble. What shall be deemed treason.

I. WHEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly*, That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall suffer death without benefit of clergy.

Proof.

Punishment.

Other cases which shall be deemed treason.

II. ALSO every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of *Virginia*, within the limits thereof, unless by act of the legislature of this commonwealth

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for that purpoſe firſt obtained; or who ſhall in any ſuch uſurped government hold or execute any office, legiſlative, executive, judiciary or miniſterial, by whatever name ſuch office may be diſtinguiſhed or called; or who ſhall ſwear or otherwiſe ſolemnly profeſs allegiance or fidelity to the ſame; or who ſhall under pretext of authority derived from, or protection afforded by ſuch uſurped government, reſiſt or oppoſe the due execution of the laws of this commonwealth, ſhall be adjudged guilty of high treaſon, and ſhall be proceeded againſt and puniſhed in the ſame manner as other traitors may be proceeded againſt and puniſhed by the laws now in force.

III. EVERY perſon who ſhall attempt to eſtabliſh ſuch government by any other means than with the aſſent of the legiſlature of this commonwealth, and in purſuance of ſuch attempts, ſhall join with any other perſon or perſons, in any overt act for promoting ſuch attempts, or who ſhall by writing or adviſed ſpeaking, endeavour to inſtigate the people of this commonwealth to erect or eſtabliſh ſuch government without ſuch aſſent as aforeſaid, ſhall be adjudged guilty of a high crime and miſdemeanor, and on conviction, ſhall be ſubject to ſuch pains and penalties, not extending to life or member, as the court before whom the conviction ſhall be, ſhall adjudge.

Attempt to eſtabliſh a ſeparate government within the limits of this ſtate to be deemed a high crime and miſdemeanor; Puniſhment.

IV. IF any citizen or inhabitant of this commonwealth, ſhall go beyond the limits of the United States, within the acknowledged juriſdiction of any civilized nation, in amity with the United States, and ſhall within the ſame commit any crime, for which in the judgment of the United States in Congreſs aſſembled, the law of nations or any treaty between the United States and a foreign nation, require him to be ſurrendered to the offended nation, and ſhall thereafter flee within the limits of this commonwealth, and the ſovereign of the offended nation ſhall exhibit to the United States in Congreſs aſſembled, due and ſatisfactory evidence of the crime, with a demand of the offender to be tried and puniſhed where the ſame was committed, and the United States in Congreſs aſſembled, ſhall thereupon notify ſuch demand to the executive of this ſtate, and call for the ſurrender of ſuch offender, the governor with the advice of the council of ſtate, is hereby authoriſed to cauſe him to be apprehended, conveyed and delivered to ſuch perſon or perſons, as the United States in Congreſs aſſembled, ſhall preſcribe.

Citizens of this commonwealth committing certain crimes in foreign nations and fleeing to this ſtate may be apprehended and ſurrendered to ſuch nation.

V. IF any citizen of this Commonwealth ſhall go out of the ſame into the territory of any chriſtian nation or *Indian* tribe, in amity with the United States, and ſhall there commit murder, houſe burning, robbery, theft, treſpaſs, or other crime, which if committed within this commonwealth, would be puniſhable by the laws thereof, it ſhall and may be lawful for any juſtice of the peace on proof of ſuch offence by the oath of one or more credible witneſs or witneſſes, to iſſue his warrant directed to all ſheriffs, under ſheriffs and conſtables within this commonwealth, commanding them and each of them within their reſpective counties and precincts, to apprehend ſuch offender or offenders, and him, her, or them to bring before ſuch juſtice, or any other juſtice of the peace in the ſame county, or in the county where the offender may be apprehended; and ſuch offender or offenders ſhall be ſubject to the ſame puniſhment, and ſhall be dealt with in the ſame manner as if the offence with which he, ſhe, or they ſtand charged, had been committed within the body of ſome county of this commonwealth; and ſuch offenders may be tried by a jury of byſtanders, qualified by law to ſerve on juries in capital caſes: *Provided alſo*, That it ſhall and may be lawful for the magiſtrate committing ſuch offender (if the circumſtances of the caſe ſhall render it abſolutely neceſſary) to appoint the time for holding a court for the examination of ſuch offenders at a more diſtant period than the law allows with regard to other criminals, provided the ſame be held within thirty days after the commitment of the priſoner.

Citizens of this commonwealth committing certain crimes in any country in amity with the United States may be tried and puniſhed as if the crime had been committed within this commonwealth.

Proviſo as to the time of holding the examining court.

VI. WHERE ſufficient proof ſhall not appear to the court before whom ſuch offender ſhall be examined, to convict him or her of the charge, it ſhall and may be lawful for ſuch court (if the circumſtances of the caſe ſhall, in the opinion of the court require it) to bind ſuch offender to his or her good behaviour, in ſuch ſum and for ſuch time as the ſaid court ſhall judge reaſonable.

Where the proof is not ſufficient to convict the offender, he may be bound to his good behaviour.

VII. ALL high treaſons, miſpriſions, and concealments of high treaſons and other offences againſt this commonwealth (except piracies and felonies on the high ſeas) committed by any citizen of thus commonwealth, in any place out of the juriſdiction of the courts of

Certain offences committed by citizens againſt the

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common-wealth or its citizens out of the jurisdiction thereof may be enquired into & tried in general court.

common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convict of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county.

Repealing clause.

Proviso.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act (except as herein after provided) shall be, and are hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commencement of this act.

IX. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXXVII.

An Act for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of Horned Cattle, and Losses from Drivers thereof passing through the Commonwealth.

[Passed the 26th of December, 1792.]

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures. Where the party injured, may sue for damages or destroy the beasts

I. BE *it enacted by the General Assembly*, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same.

How the fence shall be viewed.

II. AND that the condition of the fence at the time the trespass committed may be proved to a Jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest house-keepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same, and their testimony in such case, shall be good evidence to the jury touching the lawfulness of the fence.

Penalty for hurting beasts in grounds not sufficiently fenced.

III. IF any person damnified for want of such sufficient fence, shall hurt, wound, lame, kill, or destroy, or cause to be hurt, wounded, lamed, killed, or destroyed, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, sheep, hogs, or goats, he, she, or they so offending, shall pay and satisfy to the owner of the creature so hurt, wounded, lamed, killed, or destroyed, double damages, with costs; recoverable as aforesaid.

Reward for taking up beasts known to have barked fruit trees.

IV. ALL owners of horses, mares, cattle, and other beasts, which they know to have barked fruit trees, shall keep the same within their own fenced ground; and if any person shall take up any horse, mare, kine, or other beast, known by the owner to have barked fruit trees, and shall deliver the same to such owner, he or she shall pay the taker up, two dollars for every such beast so taken up and delivered; recoverable with costs, before any justice of the peace of the county wherein such beast was taken up, or the owner lives:

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Provided always, That the taker up, ſhall, if required, make oath before the ſame juſtice. that he took up ſuch horſe, mare, or other beaſt, and that no means were uſed by himſelf or any other perſon to his knowledge, to ſet the ſame at large, otherwiſe he ſhall loſe the ſaid reward.

Penalty for taking boats or other veſſels.

V. EVERY perſon who without leave of the owner ſhall take away any boat or other veſſel, ſhall, for every ſuch offence, pay ten dollars to the owner thereof, over and above the damage ſuch boat or other veſſel ſhall ſuſtain, and over and above the charge of bringing back ſuch boat or other veſſel; to be recovered with coſts, in any court of record, as aforeſaid. And if the perſon ſo treſpaſſing ſhall be a ſervant, he or ſhe ſhall make the like ſatisfaction, by his or her ſervice, when the time due to his or her maſter, or owner, ſhall be expired. And where there ſhall be ſeveral offenders in one treſpaſs, every perſon ſhall be liable for the whole penalty.

Bills of health to be produced by perſons driving cattle into or through the commonwealth.

VI. *AND be it further enacted,* That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the ſame owner, or to be uſed at his houſe, ſhall be deemed a nuiſance, unleſs the driver ſhall produce to any freeholder of a county wherein the drove is paſſing, who ſhall require it, a bill of health, ſigned by ſome juſtice of the commonwealth, containing the number of the drove, with deſcriptions of the cattle, by their ſexes, fleſh marks, and ear marks or brands, and certifying them to be free from diſtemper; or notwithſtanding he may produce ſuch bill of health, unleſs he ſhall forthwith obtain another, at the like requiſition, if any freeholder ſhall make affidavit before a juſtice, that he hath cauſe to ſuſpect ſome of the cattle to be diſtempered. Such bill of health ſhall not be given in either caſe, before two diſintereſted freeholders appointed by warrant of a juſtice, ſhall have viewed the cattle, and reported them to be free from diſtemper. A freeholder refuſing to obey ſuch warrant, ſhall be amerced by the juſtice granting ſuch warrant, in any ſum not exceeding five dollars. If the cattle appear by the report to be diſtempered, the owner may impound them, and if he refuſe to do ſo, or if he ſuffer them to eſcape from the pound, before a juſtice ſhall have certified that they may be removed without annoying others, the ſame juſtice, or ſome other to whom information ſhall be given of the fact, ſhall, by his order cauſe them to be ſlaughtered, and the carcaſes with the hides on, but ſo cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Thoſe who ſhall be employed in executing ſuch orders, ſhall receive eighty-three cents for every head ſo buried, to be paid by the county wherein it ſhall happen. And every perſon appointed by the order, who ſhall refuſe or neglect to execute it, ſhall be amerced in the ſum of eighty-three cents for every head ſo directed to be buried. Every perſon ſhall ſo reſtrain his diſtempered cattle, or ſuch as are under his care, as that they may not go at large off the land to which they belong, and when they die, ſhall bury them with their hides, in manner aforeſaid; and knowingly offending in either of thoſe inſtances, ſhall be amerced in the ſum of four dollars for every head they ſhall neglect ſo to bury.

How they are to be obtained.

Proceedings where the cattle are found to be diſtempered.

Owners of diſtempered cattle to confine them, and bury them when dead.

Drivers of cattle to produce manifeſts of their droves & make oath thereto.

VII. *AND be it further enacted,* That from and after the paſſing of this act, every driver of nett cattle, ſhall, immediately after their coming into this commonwealth, go before the next juſtice of the county, and produce to him a true and perfect manifeſt, certified under the hand of a magiſtrate in the ſtate from whence they laſt came, wherein ſhall be diſtinguiſhed the ſexes, ages, marks and colours of all and every ſuch cattle, and alſo, at the ſame time, produce bills of ſale for them, and particularize the place of abode and name of the ſeller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifeſt and bill of ſale, which oath the juſtice ſhall adminiſter, and certify on the manifeſt, and ſhall enter in a book, by him to be kept for that purpoſe, a copy of the ſaid manifeſt and certificate; and if any nett cattle ſhall be bought in this commonwealth in order to be driven into any neighbouring ſtate, the driver ſhall produce his bill of ſale to the next juſtice of the county where they ſhall be bought, and ſhall make oath that the ſaid bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the ſaid bill and manifeſt, in caſe there be any, which the juſtice ſhall enter and certify in manner aforeſaid, and alſo ſhall add a deſcription of the cattle ſo bought, to the manifeſt, if any; and the like method ſhall be uſed by the drivers and juſtices in all the other counties of this commonwealth, through which they paſs, upon their arrival therein. And if any driver ſhall fail herein, he, ſhe, or they, ſhall forfeit and loſe his,

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Proceedings against them for failure of the duties hereby enjoined.

her, or their whole drove of cattle: And any justice of the peace, upon complaint to him thereof made, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force, and to seize the cattle, and cause the driver or drivers to come before him, or any other justice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service, and shall also be allowed for keeping and providing for the said cattle, until they are sold, after the rate of three cents *per* head for every twenty-four hours, out of the money arising from the sale. But in case any person other than the driver or drivers so convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall, by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping; or if any owner or owners shall within three months after the sale, make their property appear as aforesaid, the sheriff shall pay him, her, or them, by order of the justice, for their cattle, according to the sale, after deducting a proportionable part of the charges: And at the expiration of the said three months, the money arising from the sale shall be appropriated, one moiety to the overseers of the poor of the district where the driver shall be convicted, for the use of the district, and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them by the sheriff accordingly; and the sheriff shall return an account of the sales to the clerk's office, to be lodged among the records of the county.

Proviso as to driving cattle in certain cases.

VIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to any of the inhabitants of this commonwealth who shall buy any neat cattle and be driving them home, or to any persons coming with their families and stocks to settle in this commonwealth.

Repealing clause. Proviso.

IX. ALL and every act or acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures or penalties which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement of this act.

X. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXVIII.

An Act for the effectual Suppression of Vice, and punishing the Disturbers of Religious Worship and Sabbath Breakers.

[Passed the 26th of December, 1792.]

Punishment for profane swearing, cursing, or drunkenness.

I. BE *it enacted by the General Assembly*, That if any person or persons shall profanely swear or curse, or shall be drunk, he, she, or they so offending, for every such offence, being thereof convicted by the oath of one or more witnesses (which oath any justice of the peace is hereby empowered and required to administer) or by confession before one or more justice or justices of the peace in the county or corporation, where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence; or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall upon such conviction forfeit and pay the sum of eighty-three cents for every such offence; and if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons by warrant or precept from any justice of the peace, before whom such conviction shall be, which warrant may be directed to the sheriff of the county, or to the constable in his respective precinct, or to the serjeant of a corporation, to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence.

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Prosecution in two months.

II. *PROVIDED always,* That every prosecution by virtue of this act for swearing, cursing, or for being drunk, shall be made within two months after the offence committed and not afterwards.

No licensed minister to be arrested while performing divine service.

III. NO officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting-house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested.

Any person disturbing a congregation, shall be arrested and bound to good behaviour.

And may be punished by fine and imprisonment.

IV. AND if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting-house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship by any justice present, which justice being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county or corporation, and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury.

Penalty for labouring on Sunday.

V. IF any person on a sabbath day shall himself be found labouring at his own, or any other trade, or calling, or shall employ his apprentices, servants, or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of one dollar and sixty-seven cents for every such offence, deeming every apprentice, servant, or slave, so employed, and every day he shall be so employed, as constituting a distinct offence.

Punishment for adultery or fornication.

VI. EVERY person not being a servant or slave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars; to be recovered by the suit or prosecution of the overseers of the poor of the county or corporation, wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no essoin, protection, or wager of law shall be allowed; which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county or corporation, wherein the said offence shall be committed.

Repealing clause.

Proviso.

VII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as is herein after provided) shall be, and the same are hereby repealed. *Provided always,* that nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

VIII. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXXIX.

An Act concerning Waste.

[Passed the 26th of December 1792.]

Forfeitures incurred by tenant for life or years committing waste.

I. BE *it enacted by the General Assembly,* That if any tenant by the curtesy, tenant in dower, or otherwise for term of life or years, shall commit waste during their several estates or terms, of the houses, woods, or any other thing belonging to the tenants so held without special license in writing so to do, they shall be subject respectively to an action of waste, and shall moreover lose the thing wasted, and recompence the party injured in three times the amount at which the waste shall be assessed.

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II. IN case any of the said tenants shall aliene their estate, and notwithstanding retain possession of the same and commit waste, he in the reversion shall be entitled to his action of waste, and likewise recover against them the place wasted, and treble damages.

Action of waste by tenant in common.

III. IF one tenant in common shall commit waste of the estate held in common, he shall be subject to an action of waste at the suit of the other tenant or tenants in common.

By heirs.

IV. AN action of waste shall be maintainable by the heir, whether within or of full age, for waste done in the time of his ancestor, as well as in his own time.

V. IF tenant for life commit waste, and he in the reversion brings his action of waste and dieth before judgment, his heir may bring an action of waste for the same.

By wards against their guardians.

VI. IF a guardian shall commit waste of the estate of his ward, such ward when he attains his full age shall have his action to recompense him for the injury.

Process in actions of waste.

VII. THE process in an action of waste, shall be summons, attachment, and distress, and if the defendant appear not upon the distress, the waste shall nevertheless be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act.

Tenant not to commit waste pending the action.

VIII. AFTER the commencement of any suit in any court of this commonwealth, the tenant shall have no power to commit waste or estrepement of the land in demand, whilst such suit is depending; and if he do the sheriff shall be commanded to keep the same at the suit of the plaintiff.

Commencement of this act

IX. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXL.

An Act concerning Weights and Measures.

[Passed the 26th of December, 1792.]

Preamble.

I. WHEREAS the General Assembly of *Virginia*, at their session in the year one thousand seven hundred and thirty-four, did pass an act, intituled, "*An act for more effectually obliging persons to buy and sell by weights and measures, according to the* English *standard*."

Act of 1734 to be in force until Congress makes some provision on the subject.

II. *BE it therefore enacted by the General Assembly*, That the said act shall continue and remain in force, until the Congress of the United States shall have made provision on that subject.

Proviso as to appropriation of the penalties.

III. *PROVIDED always*, That all fines, forfeitures and penalties in the said act mentioned, shall be and enure, one moiety to the commonwealth, and the other to the use of the informer.

Commencement of this act

IV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXLI.

An Act concerning Witnesses, and prescribing the Manner of obtaining and executing Commissions for taking their Depositions in certain Cases.

[Passed the 29th of November, 1792.]

Who shall not be admitted as witnesses.

I. BE *it enacted by the General Assembly*, That no person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

II. NO person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

III. NO negro, mulatto or *Indian*, shall be admitted to give evidence, but against or between negroes, mulattoes or *Indians*.

IV. IF any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the *subpœna* issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure. Witnesses failing to attend may be fined; and liable to action of the party.

V. IF any person so summoned and attending in any of the causes abovementioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorised to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence. Refusing to testify, how to be dealt with.

VI. WITNESSES shall be privileged from arrests in all cases except treason, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance shall by *subpœna* first duly executed by a sworn officer, or by some indifferent person, who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode. *Provided always*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any *subpœna*, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such *subpœna* expressed. Their privilege. Proviso.

VII. IN all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees, or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any *subpœna* or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found. How to be summoned.

VIII. EVERY witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents *per* day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts. Allowance for attending county courts, referees, surveys, &c.

IX. EVERY witness so summoned and attending the court of appeals, high court of chancery, general court, or any district court, shall be paid by the party at whose suit the summons issued, four cents *per* mile for travelling to the places of attendance, and the same for returning, besides ferriages, and one dollar and four cents *per* day for his attendance, which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in all cases, as well civil as criminal, shall be sworn as to their travelling, ferriages and attendance, for which purpose the clerk or some of his assistants specially empowered by the court, or the commissioners, referees, or surveyor, as the case may be, shall administer the oaths. For attending the superior courts.

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For attending in ſeveral ſuits at the ſame time.

X. NO witneſs ſhall be permitted to charge his attendance in more than one ſuit at the ſame time, but if he be ſummoned to attend in ſeveral ſuits, he may charge his attendance to either of the parties by whom he ſhall be ſummoned at his election.

Charge allowed of only three witneſſes to one fact.

XI. THERE ſhall not be allowed in the bill of coſts the charge of more than three witneſſes for the proof of any one particular fact.

Commiſſions for their examination how to be obtained, when a witneſs is about to leave the country, or is unable to attend.

XII. WHEN any witneſs ſhall be about to depart the country, or by age, ſickneſs or otherwiſe ſhall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any juſtice of the peace, the clerk of the court in which any ſuit is or ſhall be depending, may, on requeſt of either party, award a commiſſion for taking the depoſition of ſuch witneſs *de bene eſſe*, to be read as evidence at the trial, in caſe the witneſs ſhould be unable to attend; but the party obtaining ſuch commiſſion, ſhall give reaſonable notice to the other party, of the time and place of taking the depoſition, otherwiſe the ſame ſhall be void.

When a witneſs reſides beyond ſea, or in any foreign country.

XIII. UPON affidavit that any witneſs reſides beyond ſea, or in any foreign country, or in any other of the United States, the court wherein the ſuit is depending, may, on requeſt of either party, direct a commiſſion to iſſue from the clerk's office, directed to ſuch commiſſioners, not exceeding five, as ſhall be nominated and agreed upon by the parties litigant; for which purpoſe the party applying for a commiſſion in ſuch caſes, ſhall give the adverſe party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commiſſion ſhall iſſue, and if the adverſe party, his attorney or agent ſhall not attend for the purpoſe, in that caſe, the party praying the commiſſion may nominate the commiſſioners himſelf, any three of whom in either caſe may proceed to execute the ſaid commiſſion. *Provided nevertheleſs*, That in either caſe, reaſonable notice ſhall be given to the adverſe party, of the time and place of taking ſuch depoſition, and the coſts of giving notice as aforeſaid, as well as of taking any depoſition or depoſitions in any or either of the United States, or beyond ſea, or in any foreign country, may be taxed by the court againſt the party, who in their opinion, ought in juſtice to pay the ſame.

When a claim or defence depends on a ſingle witneſs.

XIV. IF any party in any ſuit at common law or in chancery, ſhall make oath, that he verily believes his claim or defence (as the caſe may be) or a material point thereof depends on a ſingle witneſs, the court, or the clerk in vacation, may award a commiſſion to take the depoſition of ſuch witneſs *de bene eſſe*, although he or ſhe be not about to depart the country, nor under any diſability, the party in ſuch caſe, giving reaſonable notice of the time and place of taking ſuch depoſition to the adverſe party.

Where a witneſs to a will reſides out of the ſtate.

XV. WHEN any will ſhall be produced to any court having juriſdiction in the caſe of ſuch will, for probat, and any witneſs or witneſſes atteſting the ſame ſhall reſide out of this commonwealth, it ſhall be lawful for ſuch court to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding judge of any court of law, to any notary public, mayor, or other chief magiſtrate of any city, town, corporation, or county, or to ſuch other perſon or perſons as by laws of ſuch country, where ſuch witneſs or witneſſes may be found, are duly authoriſed to adminiſter an oath, empowering him or them to take and certify their atteſtations. If the perſon to whom ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him or them, that the witneſs or witneſſes perſonally appeared before him or them, and made oath, or affirmed, as the caſe may require, that the teſtator ſigned and publiſhed the writing annexed to ſuch commiſſion, as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction; that he was of diſpoſing mind and memory, and that he or they ſubſcribed their names thereto in his preſence, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the court from whence ſuch commiſſion iſſued.

XVI. AND whereas great inconvenience may ariſe to the ſuitors in the ſeveral courts of this commonwealth, who are litigant with perſons reſiding without this commonwealth, and have not agents or attornies within the ſame, by the death or removal of witneſſes, whoſe depoſitions cannot legally be taken for want of notice to ſuch abſent perſons:

XVII. *BE it therefore enacted*, That when any commiſſion ſhall be obtained, to take the depoſition of a witneſs in a ſuit depending in any of the courts of this commonwealth, where the plaintiff or defendant in ſuch ſuit doth not reſide within the ſame, or hath not an agent or attorney within the ſame, to whom notice of the time and place of taking ſuch depoſition can be given, then the perſon obtaining ſuch commiſſion, having publiſhed in the *Virginia* Gazette, or in any other public newſpaper printed within this commonwealth, four weeks ſucceſſively, the time and place, when and where, the witneſs is to be examined, and the name of the witneſs, together with the names of the parties to the ſuit in which ſuch witneſs is to be examined, it ſhall and may be lawful for any plaintiff or defendant as aforeſaid, to proceed to take any depoſition authoriſed by the commiſſion iſſuing from the court agreeable to law, where the ſuit depends as aforeſaid; and ſuch depoſition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commiſſion iſſued, ſhall there be filed and allowed to be read in evidence in the ſame manner, and under the like reſtrictions as if notice had been duly given to the oppoſite party; any law, uſage, or cuſtom, to the contrary in any wiſe notwithſtanding; and the printer may demand and receive the ſum of two dollars for publiſhing ſuch advertiſement four weeks, which ſhall be taxed in the bill of coſts, if the party chargeable therewith ſhall prevail in the ſuit.

How notice is to be given where one of the parties lives out of the ſtate and has no agent therein.

XVIII. ALL and every act and acts, clauſes and parts of acts, for, or concerning any matter or thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

Repealing clauſe.

XIX. THIS act ſhall commence in force, from and after the paſſing thereof.

Commencement of this act.

C H A P CXLII.

An Act concerning ſtealing Tobacco on the Highways.

[Paſſed the 15th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That all and every perſon and perſons, that ſhall at any time after the commencement of this act, either in the night or day, take, ſteal and carry away, any hogſhead or caſk of tobacco, which ſhall be lying on or near any public highway, or any part of the tobacco contained in the ſame hogſhead or caſk, although the ſaid hogſhead or caſk may not be in the poſſeſſion of the owner thereof, ſhall be adjudged a felon, and be puniſhed as in other caſes of felony.

Felony to ſteal tobacco on the highway.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

C H A P. CXLIII.

An Act declaring what Remedy the Commonwealth ſhall have in certain Caſes.

[Paſſed the 25th of December, 1792.]

I. BE *it enacted*, That whenſoever any perſon or perſons heretofore have, or hereafter may receive, any ſum or ſums of money or tobacco, or any kind of public ſecurities whatſoever, which of right do or ſhall appertain to this commonwealth, and ſuch perſon or perſons ſhall refuſe or neglect to pay ſuch money, tobacco, or public ſecurities, or any part thereof, to ſuch officer of this commonwealth, to whom by law the ſame ought to be paid; then and in that caſe it ſhall and may be lawful for the governor, with the advice of the council of ſtate, to inſtitute an action upon the caſe againſt ſuch perſon or perſons, their executors or adminiſtrators, for money, tobacco, or public ſecurities, (as the caſe may be) had and received to the uſe of the commonwealth; which action ſhall be inſtituted in the name of the governor for the time being, and his ſucceſſors, for the uſe of the commonwealth, and ſhall not abate by the death, reſignation, or removal from office of the Governor, in whoſe name it ſhall be brought.

Actions on the caſe may be brought againſt public debtors for recovery of money, &c. due to the commonwealth.

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No official bond to be pleaded in abatement or bar thereof.

II. WHERE such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

Commencement of this act

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLIV.

An Act for appointing Public Notaries.

[Passed the 27th of December, 1792.]

Preamble.

I. WHEREAS it will be for the ease and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries should be appointed:

Public notaries, how to be appointed.

II. *BE it therefore enacted,* That the governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint so many notaries public as to him shall seem necessary; and upon the death, resignation, or removal of any such notaries public, to appoint others in his or their room; which said notaries public shall hold their respective offices during good behaviour, and shall use and exercise the said office of notary public for such places, and within such limits and precincts as the governor and council shall direct, to whose protestations, attestations and other instruments of publication due credence is hereby given. *Provided nevertheless,* That every notary public shall previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his said office; and shall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and also an oath that he will without favour or partiality, honestly, diligently and faithfully discharge the duties of a notary public.

To give bond and security, and take oaths of fidelity and of office.

Their fees.

III. *AND be it further enacted,* That every public notary shall and may demand and receive for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of eighty-three cents and no more.

Commencement of this act.

IV. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXLV.

An Act to empower Securities to recover Damages in a Summary Way.

[Passed the 27th of December, 1792.]

Summary remedy for securities in notes or obligations against their principals.

I. BE *it enacted,* That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors, or administrators, upon any note, bill, bond, or obligation, and the amount of such judgment, or any part thereof hath been paid or discharged by such security or securities, his, her, or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her, or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her, or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her, or their heirs, executors or administrators.

For one security against another jointly bound with him.

II. *AND be it further enacted,* That where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been, or shall be two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note, or other

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obligation, for the payment of money or other thing, and judgment hath been or hereafter ſhall be obtained againſt one or more of ſuch ſecurities, it ſhall and may be lawful for the court before whom ſuch judgment was or ſhall be obtained, upon motion of the party or parties againſt whom judgment hath been entered up as ſecurities aforeſaid, to grant judgment, and award execution againſt all and every of the obligors and their legal repreſentatives, for their and each of their reſpective ſhares and proportions of the ſaid debt.

III. *AND be it further enacted*, That no ſecurity or ſecurities, his, her, or their executors or adminiſtrators, ſhall be ſuffered to confeſs judgment, or ſuffer judgment to go by default, ſo as to diſtreſs his, her, or their principal, or principals, if ſuch principal or principals will enter him, her, or themſelves, a defendant or defendants to the ſuit, and tender to the ſaid ſecurity or ſecurities, his, her, or their executors or adminiſtrators, other good and ſufficient collateral ſecurity, to be approved of by the court before whom the ſuit ſhall be depending.

Securities not to ſuffer judgments to go againſt them by confeſſion or default to the injury of the principals.

IV. *AND be it further enacted*, That in all caſes where judgment hath been, or ſhall hereafter be entered up in any of the courts of record in this commonwealth, againſt any perſon as common bail for the appearance of another, to defend any ſuit depending in ſuch court, and the amount of ſuch judgment or any part thereof hath been paid or diſcharged by ſuch common bail, his, her, or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch common bail, his, her, or their heirs, executors, or adminiſtrators, to obtain judgment by motion againſt the perſon or perſons for whoſe appearance they were bound, his, her, or their heirs, executors, or adminiſtrators, for the full amount of what ſhall have been paid by the ſaid common bail, his, or her heirs, executors, or adminiſtrators, in any court where judgment may have been entered up againſt ſuch common bail. *Provided always*, that no judgment ſhall be obtained by motion as aforeſaid, unleſs the party or parties againſt whom the ſame is prayed, ſhall have ten days previous notice thereof.

Summary remedy of common bail againſt the defendant.

V. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

C H A P. CXLVI.

An Act for regulating the Militia of this Commonwealth.

[Paſſed the 22d of December, 1792.]

I. WHEREAS the Congreſs of the United States, did at their laſt ſeſſion paſs an act, intituled "*An act more effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States*," and it is expedient for this legiſlature to carry the ſame into effect ſo far as it reſpects this ſtate:

Preamble.

II. *BE it therefore enacted*, That the counties of *Accomack*, *Northampton*, *Princeſs Anne* and *Norfolk*, ſhall compoſe one brigade; the counties of *Nanſemond*, *Iſle of Wight*, *Southampton*, *Surry*, *Suſſex* and *Prince George*, one brigade; the counties of *Elizabeth City*. *Warwick*, *York*, *James City*, *Charles City*, *New-Kent*, *Henrico* and *Hanover*, one brigade; the counties of *Glouceſter*, *Mathews*, *Middleſex*, *Eſſex*, *King William*, *King* and *Queen*, *Lancaſter*, *Northumberland*, *Richmond* and *Weſtmoreland*, one brigade; and the ſaid brigades ſhall compoſe one diviſion. That the counties of *Loudoun* and *Fairfax* ſhall compoſe one brigade; the counties of *Fauquier*, *Prince William*, *Stafford* and *King George*, one brigade; the counties of *Culpeper*, *Orange*, *Spotſylvania* and *Caroline*, one brigade; the counties of *Louiſa*, *Goochland*, *Fluvanna*, *Albemarle* and *Amherſt*, one brigade; and the ſaid brigades ſhall compoſe another diviſion. The counties of *Frederick* and *Berkeley* ſhall compoſe one brigade; the counties of *Rockingham*, *Auguſta* and *Shenandoah*, one brigade; the counties of *Wythe*, *Ruſſell*, *Waſhington*, *Lee*, *Grayſon* and *Montgomery*, one brigade; the counties of *Botetourt*, *Rockbridge*, *Greenbrier*, *Bath* and *Kanawha*, one brigade; the counties of *Hampſhire*, *Hardy*, *Pendleton*, *Randolph*, *Harriſon*, *Monongalia* and *Ohio*, one brigade; and the ſaid brigades ſhall compoſe another diviſion. The counties of *Henry*, *Patrick*, *Franklin*, *Campbell* and *Bedford*, ſhall compoſe one brigade; the counties of *Pittſylvania*, *Halifax*, *Charlotte* and *Prince Edward*, one brigade; the counties of *Dinwiddie*, *Greenſville*,

Arrangement of the militia in brigades and diviſions.

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Brunſwick, *Lunenburg* and *Mecklenburg*, one brigade; the counties of *Cheſterfield*, *Amelia*, *Nottoway*, *Powhatan*, *Cumberland* and *Buckingham*, one brigade; and the ſaid brigades ſhall compoſe another diviſion.

In regiments and battalions.

III. *AND be it further enacted*, That the counties of *Berkeley*, *Culpeper*, *Loudoun* and *Frederick*, ſhall compoſe two regiments and four battalions each; that the counties of *Middleſex* and *Eſſex* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *King* and *Queen* and *King William*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Northumberland* and *Lancaſter* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Richmond* and *Weſtmoreland* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Powhatan* and *Cumberland* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Harriſon* and *Randolph* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Ruſſell* and *Lee* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; and the counties of *Charles City* and *New Kent* ſhall compoſe each one battalion, which two battalions ſhall conſtitute one regiment; the counties of *Elizabeth City* and *Warwick* one battalion, and the counties of *York* and *James City* one battalion; which two battalions ſhall compoſe one regiment; and each of the other counties in this commonwealth, and alſo the city of *Richmond* and borough of *Norfolk*, ſhall compoſe each one regiment and two battalions.

Officers, how to be appointed.

IV. *AND be it further enacted*, That the General Aſſembly ſhall by joint ballot of both houſes, appoint an adjutant-general for the militia of this ſtate, and alſo a major-general to each diviſion, and a brigadier-general to each brigade; which major-generals and brigadiers ſhall reſide within the limits of their reſpective commands. Each major-general ſhall appoint his own aids-de-camp, and each brigadier-general his own brigade inſpector, who ſhall alſo reſide within the limits of their reſpective diviſions and brigades.

V. *AND be it enacted*, That the courts of the ſeveral counties and corporations ſhall from the field and other officers who at preſent hold commiſſions in the militia of the reſpective counties and corporations, proceed to recommend to the Executive the officers neceſſary to complete the regiments and battalions and companies purſuant to this act, by grades and ſeniority, and the perſons ſo recommended, ſhall be commiſſioned by the governor, agreeable to the conſtitution of this ſtate.

Officers not recommended by the county courts to become ſupernumeraries.

VI. ALL perſons holding commiſſions under the late militia laws of this ſtate, and who ſhall not be recommended by their reſpective courts, ſhall be conſidered as ſupernumerary officers, and may be recommended by the reſpective county and corporation courts to ſupply vacancies hereafter happening in the officers of the militia.

Commiſſioned officers to meet twice in every year to be trained.

VII. AND whereas it will be productive of conſiderable advantages to the diſciplining the militia, to have frequent meetings of the commiſſioned officers of the ſeveral regiments and battalions; *Be it enacted*, That the commiſſioned officers of the ſeveral regiments and battalions ſhall meet twice in every year, for the purpoſe of being trained and inſtructed by the brigade inſpector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus aſſembled, ſhall each continue two days and no longer, for every time they ſhall be called out. Every officer failing to attend ſuch meeting, on being ſummoned (not having a reaſonable excuſe to be adjudged of by a court martial) ſhall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Diviſions, brigades, and regiments to be numbered and regiſtered in the adjutant general's office.

VIII. IT ſhall be the duty of the executive to number by ballot the ſeveral diviſions, brigades, and regiments, and cauſe the ſame to be regiſtered in the office of the adjutant-general; and every commiſſion hereafter iſſued by the executive, ſhall expreſs the number of the diviſion, brigade, or regiment, reſpectively, to which the perſon to whom the ſame is directed ſhall belong.

Counties to be divided in-

IX. *AND be it further enacted*, That the commanding officers of regiments, battalions, and companies, to be appointed and commiſſioned by virtue of this act, ſhall meet at their

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respective courthouses on some day in the month of *March* or *April* next, to be appointed by the commanding officers of regiments, then and there to divide their respective counties into districts, for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off, shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively, herein after to be appointed.

to districts for forming regiments, battalions, and companies.

X. *AND be it further enacted*, That it shall be the duty of the commanding officer of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Companies to be divided into divisions.

XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors, and students at the college of *William* and *Mary*, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

Persons exempted from militia duty.

XII. AND whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result:

XIII. *BE it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each battalion, out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry, or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

A company of grenadiers, light infantry, or rifle-men, to be annexed to each battalion.

XIV. *AND be it further enacted*, That the governor with the advice of council, shall, and he is hereby empowered to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorised and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the
company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same pro-

A company of cavalry, and a company of artillery, to be annexed to each division.

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portions to their respective ranks, enlist a company, to be denominated the company of cavalry. *Provided*, That the number of companies of artillery and of cavalry, shall not exceed one for each brigade.

Proviso.

XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—

Oaths of officers.

I do swear that I will be faithful and true to the commonwealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the regiment of the militia of* Virginia, *according to the best of my skill and judgment:* So help me GOD."

Adjutant general may convene brigade majors and inspectors.

XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act.

Musters of the companies.

Of the battalions; Of the regiments;

Notice of them, by whom, and how to be given.

XVII. THERE shall be a private muster of each company of grenadiers, light infantry, riflemen, artillery and cavalry once in every two months, except in the months of *December*, *January* and *February* in every year, and every other company, formed by virtue of this act once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at, or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of *May*, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion; and a muster of each regiment in the month of *October*, in every year, to be appointed by the brigadier general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters, the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of the companies shall give notice of the regimental, battalion, and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies, at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing, shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster, to the

Penalties on officers, and serjeants failing to give notices.

Rolls to be called, and delinquencies noted.

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commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion, shall at their regimental or battalion musters, (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, That the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit:

Form of return of delinquencies.

I , do certify that the returns hereunto annexed, contain all the delinquencies which have occurred in my company since my last return, having examined the same as the law directs.

And to the battalion returns shall be added, "and that the reports which accompany them, are all which have been made by the commanding officers of battalions."

Returns of companies. Of battalions; Of regiments.

XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments, in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Serjeants, corporals, drummers and fifers to be appointed to each company.

XIX. EACH captain or commanding officer of a company, shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion; and all vacancies which may thereafter happen, shall be filled up by appointments in like manner.

The officer next in rank to take command in the absence of his superior.

XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

Militia to be exercised.

XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorised to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorised and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one, and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expence thereof, the executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour.

XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed.

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Non-commissioned officers and soldiers may be confined, or bound neck and heels for disobedience or mutiny.

XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board, directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

Bystanders may be confined for molesting any officer or soldier on duty.

XXV. IF any by-stander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

Colours to be procured.

Drums and fifes, or bugle-horns.

XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Militia to be called forth in case of invasion or insurrection.

XXVII. *AND be it further enacted,* That the governor, with the advice of council, be authorised and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

Articles impressed to be valued.

And the owners paid therefor if lost.

Officers answerable to the public, if lost thro' neglect.

XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

Executive to appoint officers when necessary.

XXIX. IF it shall appear to the executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor with the advice of council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Commanding officer in a county, may order out militia in invasions or insurrections.

XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorised and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them as is directed in the case of musters.

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XXXI. WHENEVER any militia ſhall be called forth into actual ſervice as aforeſaid, they ſhall be governed by the articles of war which govern the troops of the United States. And courts-martial ſhall be held as are therein directed, to be compoſed of militia officers only, for the trial of any perſon in the militia; but to the caſhiering of any officer, or capital puniſhment of any perſon, the approbation of the executive ſhall be neceſſary; and when any militia ſhall be in actual ſervice, they ſhall be allowed the ſame pay and rations as are allowed by the Congreſs of the United States to the troops in the ſervice of the United States.

Militia in ſervice to be governed by the articles of war of the United States.

Their pay & rations.

XXXII. *AND be it further enacted*, That the commanding officer of every battalion of militia, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer, and ſo many men of the militia as to him ſhall ſeem neceſſary, not exceeding four, once in every month, or oftener if thereto required by ſuch officer, to patrole and viſit all negro quarters and other places ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling about from one plantation to another, without a paſs from his or her maſter, miſtreſs or owner, and carry them before the next juſtice of the peace, who, if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon as aforeſaid, to receive any number of laſhes, not exceeding twenty, on his or her bare back; and in caſe one company of patrollers ſhall not be ſufficient, more companies may in like manner be ordered for the ſame ſervice. And after every patrole, the officer of every party ſhall return to the captain of the company to which he belongs, a report in writing upon oath (which oath ſuch captain is hereby empowered to adminiſter) of the names of thoſe of his party who were upon duty, and of the proceedings of ſuch patrole; and ſuch captain ſhall once in every month deliver ſuch patrole returns to the commanding officer of his battalion, by whom they ſhall be certified and laid before the next court-martial, and if they ſhall adjudge the patrollers to have performed their duty according to law, the ſaid court ſhall certify the ſame to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them ſhall ſo patrole; and every commanding officer failing to appoint patrollers according to the directions of this act, ſhall forfeit and pay thirty dollars; and every perſon appointed to patrole, failing to do his duty, ſhall forfeit and pay three dollars for every ſuch failure; which fines ſhall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the ſeveral fines and penalties by this act directed.

Patrollers to be appointed.

Their duty.

Their pay.

Penalty for failing to do their duty.

XXXIII. AND whereas it is neceſſary that certain tribunals be inſtituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and aſſeſſing fines thereon: *Be it therefore enacted*, That the governor ſhall have power to arreſt the major-generals, and all other officers for any miſconduct whatever, and upon trial and conviction, may cenſure or caſhier them; a lieutenant-colonel commandant may arreſt any officer under his command, and report him to the governor for trial, or at the option of ſuch lieutenant-colonel commandant, a general court-martial, to conſiſt of thirteen officers, may by his order be held within the limits of his regimental diſtrict, for trial of ſuch as ſhall be under the rank of a field officer. The preſident of the ſaid court ſhall be a field officer, and ſix at leaſt of the members ſhall be captains, and where there is not a ſufficient number of officers in any regiment to conſtitute a court where the arreſt is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from ſuch regiment as will be ſufficient to make a court, and ſuch court may, on conviction, cenſure or caſhier any officer ſo tried, and their ſentence ſhall be final; ſaving to ſuch officer an appeal to the executive, if he ſhall think proper; in which caſe the commanding officer ſhall furniſh him with a copy of the proceedings of the ſaid court. Any non-commiſſioned officer or ſoldier offending, ſhall be tried by a like general court-martial, and may, on conviction, be cenſured or fined at the diſcretion of the court. For obtaining the neceſſary evidence for the trials aforeſaid, the governor, or the commanding officer of the regiment (as the caſe may be) ſhall iſſue his ſummons, and any perſon ſo ſummoned, failing to attend, ſhall forfeit and pay, upon a ſummons from the governor, thirty dollars, and upon a ſummons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongſt other delinquencies, to the court aforeſaid.

Courts martial to be held for the trial of officers.

Officers by whom to be arreſted.

Appeals may be made from the ſentence of a court-martial to the executive.

Evidence, how to be procured.

XXXIV. *AND be it further enacted*, That the commanding officers of regiments ſhall, on ſome day in the months of *May* and *October*, not exceeding fifteen, nor leſs than ten

Courts for aſſeſſment of

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fines, when and where to be held.

days after their regimental and battalion musters, order the commanding officers of battalions and companies, to meet at the places where their last battalion musters respectively were held, a majority of whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant colonel commandant to preside at such boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to-wit:

I do swear, that I will truly and faithfully, enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favor, partiality, or affection: So help me GOD."

The lieutenant colonel commandant shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Fines to be collected by the sheriffs;

XXXV. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of *January*, in every year, who shall give his receipt therefor, and account for the same to the lieutenant colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of *November*, in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of *May*, in any year, the sheriff is hereby authorised to make distress and sale therefor, in the same manner as is directed in the collection of taxes.

by distress, when necessary.

Officers to render accounts of fines received.

XXXVI. The commanding officer of every regiment shall on or before the thirty-first day of *December*, in every year, render to the executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Fines to be paid for delinquencies; by a commanding officer of a regiment.

XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, *viz* By a lieutenant colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars: failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer, for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence, he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars. And moreover the said officers, for any

By a major.

By a captain.

By a subaltern.

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of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

By a noncommissioned officer or private.

XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests at musters and in service.

XXXIX. THE commanding officers of regiments, shall on the day of his regimental muster, first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular rotine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

XL. THE militia of the city of *Williamsburg*, city of *Richmond*, and borough of *Norfolk*, shall have their officers appointed, and be under the same rules and regulations as the different counties.

Richmond, *Williamsburg*, and *Norfolk* militia to be under the like regulations as the militia of the counties.

XLI. THE commanding officers of regiments, are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

XLII. ANY court-martial may for good cause shewn, remit any fines imposed by a former court-martial, provided that not more than two courts-martial shall have intervened between such imposition and application for remission.

Courts martial may remit fines;

XLIII. COURTS-MARTIAL may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

And exempt persons from militia duty for bodily infirmities.

XLIV. FOR the trial and punishment of the adjutant-general, major-generals, and brigadier-generals, *Be it enacted*, That any major-general, or brigadier-general offending under this act, shall be arrested and tried in the following manner, *viz.* A major-general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court-martial, to consist if convenient of the remaining major-generals, the brigadier generals of the division, over which such major general is appointed, or as many of them as can conveniently attend, and as many lieutenant colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court-martial for the trial of such offenders. Any brigadier general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major general of the division to which he belongs, and tried by a court-martial, to consist of one major general, and not more than four brigadiers, and as many lieutenant colonel commandants, majors and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

Courts martial for the trial of general officers.

XLV. *AND be it further enacted*, That the adjutant general shall be allowed four hundred dollars *per* year; and that each brigade inspector shall be allowed one hundred and fifty dollars *per* year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made.

Salaries of the adjutant general and brigade inspectors.

XLVI. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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CHAP. CXLVII.

An Act repealing under certain Restrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

[Passed the 27th of December, 1792.]

Preamble.

I. WHEREAS by an ordinance of convention, passed in the month of *May*, in the year of our Lord, one thousand seven hundred and seventy six, intituled, "*An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, 'till the same can be more amply provided for*," it is among other things ordained, "That the common law of *England*, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King *James* the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony."

II. AND whereas the good people of this commonwealth may be ensnared by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought adviseable by the General Assembly, during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of *Virginia*.

No statute or act of the parliament of Great Britain to have any force within this state.

III. *BE it therefore enacted by the General Assembly*, That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed; and that no such statute or act of parliament shall have any force or authority within this commonwealth.

Proviso as to rights arising under, and crimes committed against them before the commencement of this act.

IV. *PROVIDED always*, That all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made.

Saving the right to writs remedial and judicial, and the proceedings thereon.

V. SAVING moreover to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, constructions and purposes, as if this act had never been made; any thing herein contained, to the contrary, or seeming to the contrary, notwithstanding.

Commencement of this act.

VI. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXLVIII.

An Act for supplying the defect of repealing Clauses, to certain Acts therein mentioned.

[Passed the 28th of December, 1792.]

Preamble.

I. WHEREAS the General Assembly, at their present session, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts subsequent in their date to other acts on the same subject, have no repealing clauses, and inconveniencies may arise from the omission thereof:

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II. *BE it therefore enacted*, That all and every act and acts, clause and clauses, part and parts of acts, antecedent to, and within the purview of an act passed by the General Assembly of this commonwealth, at their session in *October*, one thousand seven hundred and eighty-five, intituled, "*An act to prevent the circulation of private Bank Notes*," one other act passed at the same session, intituled, "*An act concerning Estrays*," one other act of the same session, intituled, "*An act concerning Public Roads*," and one act passed at their session in the year one thousand seven hundred and eighty-six, intituled, "*An act against Usury*," one other act of the same session, intituled, "*An act prescribing a method of protesting inland Bills of Exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," and one other act passed in their session of one thousand seven hundred and eighty-seven, intituled, "*An act for the relief of persons who have been or may be injured by the destruction of the Records of County Courts*," for so much of every such act, clause or part of act as relates to any subject, matter, or thing, within all or any of the provisions in the said recited acts, or either of them contained, shall be, and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject. All acts antecedent to certain enumerated acts on the same subjects, repealed

III. THIS act shall commence and be in force, from the passing thereof. Commencement of this act.

CHAP. CXLIX.

An Act providing for the republication of the Laws of this Commonwealth.

[Passed the 28th of December, 1792.]

I. BE *it enacted by the General Assembly*, That the declaration of rights, made by the representatives of the good people of *Virginia*, assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government; and the constitution or form of government agreed to, and resolved upon by the delegates and representatives of the several counties and corporations of *Virginia*, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of Assembly shall be published from the inrolled bills in the same code, to wit: "*An act for confirming and better securing the titles to land in the* Northern Neck, *held under the Right Honorable* Thomas Lord Fairfax, *Baron of* Cameron, *in that part of* Great Britain *called* Scotland," "*An act for confirming the grants made by his Majesty within the bounds of the* Northern Neck," "*An act to empower the freeholders of the several towns not incorporated to supply the vacancies of the trustees and directors thereof*," "*An act concerning wrecks*," "*An act to authorise the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the right of this commonwealth to the territory North-westward of the river* Ohio," "*An act for securing to authors of literary works, an exclusive property therein for a limited time*," "*An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the General Assembly, of the State of* Maryland, *and commissioners appointed by this commonwealth*," "*An act for establishing religious freedom*," *An act to prevent frauds and perjuries*," "*An act providing that wrongful alienations of land, shall be void so far as they be wrongful*," "*An act to prevent the circulation of private bank notes*," "*An act concerning aliens*," "*An act directing that none shall be condemned without trial, and that justice shall not be sold or deferred*," "*An act forbidding and punishing affrays*," *An act against conspirators*," "*An act against conveying or taking pretensed titles*," "*An act prescribing the punishment of those who sell unwholesome meat or drink*," "*An act for reforming the method of proceeding in writs of right*," "*An act concerning partitions and joint rights and obligations*," "*An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith*," "*An act declaring when the death of persons absenting themselves shall be presumed*," "*An act for the relief of persons who have been or may be injured by the destruction of the records of county courts*," "*An act to supply the defect of evidence of the royal assent to certain acts of assembly under the former government*," "*An act to authorize the establishment of fire companies*," "*An act for the appointment of harbour-masters and declaring their duty*," *An act concerning estrays*," "*An act concerning public roads*," "*An act directing what persons shall be let to bail*," "*An act for the suppression and punishment of riots, routs, and unlawful assemblies*," "*An act against usury*," "*An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions*

Bill of rights and the constitution to be prefixed to the code of laws.

Acts to be published in the code with those which have been revised.

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thereupon in their own names," An act to prevent the importation of convicts into this commonwealth," "An act concerning the credentials of the Senators of this commonwealth, in Congress," "An act allowing travelling expences to the judges of the general court," "An act against such as shall procure or commit wilful perjury, and against embracery," "An act to regulate the inspection of hemp," "An act to disable certain officers under the continental government, from holding offices under the authority of this commonwealth," "An act concerning the territory ceded by this Commonwealth to the United States," "An act for safe keeping prisoners committed under the authority of the United States, into any of the jails of this commonwealth," An act authorising the Governor of this commonwealth, to convey certain lands to the United States for the purpose of building a light house," "An act concerning homicide by misfortune," "An act allowing a bill of exception to be sealed," "An act concerning election of members of General Assembly," "An act concerning the election of members of the General Assembly," "An act concerning the erection of the district of Kentuckey *into an independant state," "An act against those who counterfeit letters, or privy tokens to receive money or goods in other men's names," "An act against the embezzling of records," "An act concerning the benefit of clergy," "An act to provide against the appropriation of money by resolution of the two houses of assembly," "An act for the cession of ten miles square, or any lesser quantity, of territory within this state to the United States, in Congress assembled, for the permanent seat of the general government," "An act for the relief of creditors against fraudulent devises." "An act concerning awards," "An act concerning the southern boundaries of this state,"* and "*An act for regulating the navigation of* James *river, above the falls of the said river."*

To be published in order as enacted, & the day of passing prefixed.

II. THE said laws shall be published in order, as they were enacted, and the day upon which they respectively passed, shall be prefixed to each act.

Sums of money and quantities of tobacco in the laws to be converted into dollars and cents, in all process entries &c.

III. WHERE any of the laws of this commonwealth express any sum or sums of money, in pounds, shillings and pence, the clerks of the several courts within this commonwealth, in all process, entries, and orders respecting the same, shall reduce such sum or sums of money into dollars and cents; and where any quantity or quantities of tobacco shall be expressed in the said laws, the clerk shall in like manner reduce the same into dollars and cents, at the rate of two dollars *per* hundred weight.

Executive to cause the code to be printed, with an index and marginal notes. Copies, how to be disposed of. How to be bound.

IV. *AND be it further enacted*, That the executive shall cause a sufficient number of copies of the laws of this commonwealth, as revised and enacted by the present session of assembly, to be printed with a complete index and marginal notes, ten copies of which shall be delivered to the executive department, four copies to the clerk of each house of assembly, and one copy to each member of the present general assembly, to each of the judges of the superior courts, to every justice of the peace, and the clerk of every court within this commonwealth; the cost of which shall be paid out of the contingent fund. Those copies which shall be delivered to the executive, to the clerks of the two houses of assembly, to the clerks of courts, and to the judges of the superior courts, shall be well bound in calf skin, and the other copies shall be bound in boards.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CL.

An Act declaring what Acts of the present Session shall be immediately in Force, and to suspend the Operation of all other Acts of the present Session, which are of a public and permanent Nature.

[Passed the 28th of December, 1792.]

Operation of all public and permanent acts of this session, suspended until 1st *October*, 1793.

I. BE *it enacted by the General Assembly*, That the operation of all the acts passed during the present session of Assembly, which are of a public and permanent nature, shall be and the same are hereby suspended until the first day of *October*, one thousand seven hundred and ninety-three.

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Certain acts excepted.

II. PROVIDED *nevertheless*, That nothing herein contained shall be construed so as to suspend the operation of the following acts, *viz.* "*An act for appointing electors to choose a President, and Vice-President of the United States*," "*An act giving further time to the owners of entries on the western waters to survey the same*," "*An act for reducing into one act, the several acts concerning the court of appeals and special court of appeals*," "*An act for regulating the militia of this commonwealth*," "*An act for arranging the counties of this commonwealth into districts, to choose representatives to congress*," "*An act for appropriating the public revenue*" "*An act remitting certain militia fines*," "*An act giving further time to the owners of surveys to return the same into the land-office*," "*An act for ascertaining the salaries to the officers of civil government*," "*An act for establishing a bank in the town of* Alexandria," "*An act empowering the executive to advance to the public printer a sum of money for the purposes therein mentioned*," "*An act to amend the act, intituled, an act authorising the executive to direct the sheriffs to sell lands the property of this commonwealth*," "*An act for reducing into one, the several acts of assembly for the inspection of tobacco*," "*An act to reduce into one, the several acts concerning the recovery of debts due to the public, and the sale of lands for judgments on behalf of the commonwealth against public officers*," "*An act to reduce into one, the several acts concerning the county and other inferior courts of this commonwealth*," "*An act repealing the act, intituled, an act providing a sinking fund for the gradual redemption of the public debt*," "*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts*," "*An act to authorise the executive to remit damages in certain cases*," "*An act reducing into one, the several acts concerning the high court of chancery*," "*An act for imposing a public tax for the year one thousand seven hundred and ninety-two*," "*An act reducing into one, the several acts concerning the general court, and prescribing the manner of proceeding therein in certain cases*," "*An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors*," "*An act authorising the general court to appoint a clerk* pro tempore," "*An act concerning coin*," "*An act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies*," "*An act reducing into one, the several acts for regulating the inspection of flour and bread*," "*An act for establishing a bank in the city of* Richmond," "*An act to provide more effectually for the collection of the public taxes in certain cases*," and, "*An act declaring, what remedy the commonwealth shall have in certain cases*."

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

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General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 21st Day of *October*, in the Year of our Lord, 1793.

CHAP. CLI.

An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 10th of December, 1793.]

Writs of execution.

How to be issued and returned. Fifteen days at least between teste & return.

From the general and district courts, when returnable.

I. BE *it enacted by the General Assembly*, That all persons who have, or shall hereafter recover any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That executions may be issued from the general court, returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof. *And provided also*, That if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit:

A FIERI FACIAS IN DEBT.

Forms of the writs. Against goods and chattels. Debt.

THE commonwealth of Virginia, *to the sheriff of* county, *greeting: We command you, that of the goods and chattels of* A. B. *late in your bailiwick, you cause to be made the sum of* , *which* C. D. *lately in our* *court hath recovered against him for debt; also the sum of* , *which to the said* C. D. *in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said* *before the judges or justices (as the case may be) of our said court, the* *day of* , *to render to the said* C. D. *of the debt and damages aforesaid. And have then there this writ. Witness, &c.*"

THE SAME IN CASE, UPON A PROMISE:

Case, assumpsit.

AS before unto " *for his damages, which he sustained, as well by reason of his not performing a certain promise and assumption to the said* C. D. *by the said* A. B. *lately made, as for his costs by him about his suit in this behalf expended, &c.*"

IN TRESPASS.

Trespass.

AS before unto " *for damages, as well by occasion of a certain trespass by the said* A. B. *to the said* C. D. *offered as for his costs, &c.*"

IF FOR THE DEFENDANT, SAY,

For the defendant.

" *FOR his costs about his defence in a certain action at the suit of the said, &c.*"

IN COVENANT.

AS before unto " for damages, &c. by occasion of a breach of a certain covenant between the said A. B. *and* C. D. *lately made, &c."* Covenant.

THE FORM OF A WRIT OF ELEGIT.

" *THE commonwealth, &c. greeting: Whereas* A. B. *at our court, &c. before our judges (or justices) held, hath recovered against* C. D. *the sum of , which to the said plaintiff was adjudged for a certain debt or damages, " as before" ;" and the said* A. B. *hath chosen to have delivered to him all the goods and chattels of the said* C. D. *saving only the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, to have and to hold the goods and chattels aforesaid as his own proper goods, and the said moiety as his freehold to him and his assigns, until he shall have levied thereof the debt and damages aforesaid: Therefore we command you that you cause to be delivered, all the goods and chattels of the said* C. D. *saving the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, whereof he at the day of obtaining the said judgment was seized, or at any time afterwards, by reasonable price and extent, to have and to hold the said goods and chattels, to him the said* A. B. *as his own proper goods and chattels, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid, and that you certify our said judges (or justices) under your own seal, and the seals of those by whose oath you shall make this extent and appraisement, how you execute this writ, the day of . And have then there this writ, &c."* Against lands and tenements

A CAPIAS AD SATISFACIENDUM.

" *THE commonwealth, &c. greeting: We command you, that you take* A. B. *late of , if he be found within your bailiwick, and him safely keep, so that you have his body before our judges (or justices) of our court, &c. the day of to satisfy* C. D. *the sum of which the said* C. D. *hath recovered against him for debt, also, &c." as before.* Against the body.

IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

WHICH said writs so issued, shall be executed by the sheriff or other officer to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned, to wit: Forms of the returns.

THE RETURN OF A FIERI FACIAS.

" *BY virtue of this writ to me directed, I have caused to be made the within mentioned sum of , of the goods and chattels of the within named* A. B. *which said sum of before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires."* Fieri facias executed.

OR,

" *THE within named* A. B. *hath no goods or chattels within my bailiwick, whereof I can make the sum within mentioned."* Where no goods.

OR,

" *BY virtue, &c. I have caused to be made of the goods and chattels of the within named* A. B. *the sum of , which I have ready to render to the within named* C. D. *in part of the debt and damages within mentioned: And I do further certify, that the said* A. B. *hath no more goods and chattels within my bailiwick, whereof at present I can make the residue of the said debt and damages, as by the said writ is required."* Where part is levied.

RETURN OF A WRIT OF "ELEGIT."

" *INQUISITION indented, taken at , in the county aforesaid, the day of , in the year of our Lord , before me* E. F. *sheriff in the county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by the oath of* A. B. C. *&c. good and lawful men of my bailiwick, who being charged and sworn upon their oath do say, that* A. B. *in the said writ to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit, of the price of which I, the said sheriff, have caused to be delivered to the same* C. D. *to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned: and further the said jurors upon their oath do say, that the said* A. B. *at the time of rendering the judgment aforesaid, was seized in his own* demesne, *as of fee, of and in* [here name the houses and lands] *with the appurtenances of the annual value in all the issues beyond reprises of pounds, acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said* A. B. *which said moiety, I the said sheriff, the day aforesaid, to* C. D. *in the said writ named, at a reasonable extent, have delivered to hold to him and his assigns, as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath* Elegit executed.

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do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place above mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

Capias executed.

" *BY virtue of this writ to me directed, I have taken the within named* A. B. *whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy* C. D. *of the debt and damages within mentioned, as within to me is commanded."*

O R,

Not executed.

" *THE within named* A. B. *is not found within my bailiwick."*

In what manner another execution may be issued where the first has not been served, or has not been satisfied.

II. WHEN any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a *capias ad satisfaciendum* the sheriff shall return that the defendant is not found, the clerk may issue a *fieri facias*; and if upon a *fieri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an elegit, a new elegit shall issue for the residue; and where *nihil* shall be returned upon any writ of elegit, a *capias ad satisfaciendum*, or *fieri facias* may issue, and so *vice versa*; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

Tenant by *elegit*, if evicted may have a *scire facias* against his debtor, and another execution for his debt, &c.

III. IF a tenant, by elegit be evicted of his title in the lands, tenements or hereditaments which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages, and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors, or administrators; and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

No extent to be avoided for omission of part of the lands extendible.

IV. WHEN any judgment or recognizance shall be extended, the same shall not be avoided or delayed by occasion that any part of the lands or tenements extendible are or shall be omitted out of such extent.

Saving remedy of contribution.

V. SAVING always to the party and parties whose lands shall be extended, his and their heirs, executors, and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

Infants lands excepted.

VI. *PROVIDED nevertheless*, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee descended or devised, further or otherwise than might have been made before the making of this act.

If a debtor dies in prison, creditors may have new executions against his estate.

VII. IF any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution, for any debt or damage recovered, his or their executors or administrators may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

Except his lands *bona fide* sold for the payment of his debts.

VIII. *PROVIDED always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Perſons in execution delivered by privilege of General Aſſembly to return in execution when that ceaſeth.

IX. IF any perſon taken in execution be delivered by privilege of either houſe of aſſembly, ſo ſoon as ſuch privilege ceaſeth, he ſhall return himſelf a priſoner in execution, or be liable to an eſcape.

Executions from a county court may be ſerved in any other county.

X. WHERE judgment ſhall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the perſon againſt whom ſuch judgment ſhall be obtained, ſhall remove himſelf or his effects, or ſhall reſide out of the limits of the juriſdiction of ſuch court, it ſhall be lawful for the clerk of the court, where judgment was given, at the requeſt of the party for whom the ſame was rendered, to iſſue any writ of *fieri facias*, or *capias ad ſatisfaciendum*, or any other legal or proper writ of execution or attachment for the non performance of a decree in chancery (as the caſe may require) in the form and under the teſte herein before preſcribed, and to direct the ſame to the ſheriff of any county, or ſerjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods ſhall be found; which ſaid ſheriff or other officer to whom the ſame ſhall be directed, is hereby empowered and required to ſerve and execute the ſame, and ſhall make return thereof to the court where the judgment was given, in the manner herein before preſcribed and directed.

Property in goods bound from delivery of execution to the officer.

XI. NO writ of *fieri facias*, or other writ of execution, ſhall bind the property of the goods againſt which ſuch writ is ſued forth, but from the time that ſuch writ ſhall be delivered to the ſheriff, under ſheriff, coroner, or other officer to be executed; and for the better manifeſtation of the ſaid time, ſuch ſheriff, coroner, or other officer, his deputy or agent, ſhall upon the receipt of any ſuch writ, without fee for doing the ſame, endorſe upon the back thereof, the day of the month and year when he received the ſame; and if two or more writs ſhall be delivered againſt the ſame perſon in the ſame day, that which was firſt delivered ſhall be firſt ſatisfied. If any ſheriff, coroner, or other officer, to whom any execution ſhall be delivered, ſhall fail or neglect to endorſe thereon the day of the month and year when he received the ſame, every ſuch perſon, for every ſuch failure, ſhall be liable on a motion to be made before the court from whence the execution iſſued, to a penalty not exceeding fifteen *per centum* upon the amount of the ſaid execution if it be for money or tobacco, and if it be for a ſpecific thing, one hundred dollars, to the uſe of the party injured, upon giving ten days previous notice of ſuch motion; and ſhall moreover be liable to the action of the party grieved for all damages ariſing from ſuch failure.

Time of delivery to be endorſed by the officer.

Goods taken by execution when and how to be ſold.

XII. ON all executions which have heretofore iſſued, or ſhall hereafter be iſſued, the ſheriff or other officer having publiſhed notice of the time and place of ſale, at the door of the court-houſe of his county on ſome court day, and at ſome public place near the reſidence of the debtor, at leaſt ten days before ſuch ſale, ſhall proceed to ſell by auction the goods or chattels ſo taken, or ſo much thereof as ſhall be ſufficient to ſatisfy the judgment or decree, for the beſt price that can be got for the ſame.

Officer may accept ſecurity for goods until the day of ſale.

XIII. *PROVIDED always*, That if the owner of ſuch goods and chattels ſhall give ſufficient ſecurity to ſuch ſheriff or officer, to have the ſame goods and chattels forthcoming at the day of ſale, it ſhall be lawful for the ſheriff or officer to take a bond from ſuch debtor and ſecurities, payable to the creditor, reciting the ſervice of ſuch execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of ſale appointed by ſuch ſheriff or officer, and ſhall thereupon ſuffer the ſaid goods and chattels to remain in the poſſeſſion, and at the riſk of the debtor until that time; and if the owner of ſuch goods and chattels, ſhall fail to deliver up the ſame, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, ſuch ſheriff or officer ſhall return the bond to the office of the clerk of the court from whence the execution iſſued, to be there ſafely kept, and to have the force of a judgment; and thereupon it ſhall be lawful for the court, where ſuch bond ſhall be lodged, upon motion of the perſon to whom the ſame is payable, his executors or adminiſtrators, to award execution for the money and tobacco therein mentioned, with intereſt thereon from the date of the bond, till payment and coſts, provided the obligors, their executors or adminiſtrators, or ſuch of them againſt whom execution is awarded, have ten days previous notice of ſuch motion; and upon ſuch execution, or on any execution awarded on any bond, which ſhall hereafter be given to replevy an eſtate taken by a former execution, the ſheriff or officer ſhall not take any ſecurity either to have the goods forth-

Proceedings on the bonds where the goods are not delivered.

No ſecurity to be taken on executions thereon, or on replevy bonds.

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coming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied.

XIV. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forthcoming bonds when to be returned.

XV. IF any sheriff or other officer shall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

No security to be taken on executions against sheriffs, coroners, or constables.

XVI. WHEN execution shall issue against the estate of any sheriff, under sheriff, serjeant of a corporation, coroner or constable, or their securities, or the heirs, executors or administrators of either of them, upon a judgment obtained against such sheriff, under sheriff, serjeant of a corporation, coroner, or constable, or securities, or the heirs, executors or administrators of either of them, for money or tobacco received by such sheriff, under sheriff, serjeant of a corporation, coroner or constable, by virtue of any execution or process, levied or executed by him, or them, or for any money collected or received by them in any manner, as sheriffs, serjeants, coroners, or constables, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered; and for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security of any kind is to be taken." In like manner on all executions which may issue against any collector of the poor rates, his heirs, executors or administrators, or against any overseer or overseers of the poor, his, or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken."

Collectors of the poor rates. Overseers of the poor.

In what cases slaves may not be seized.

XVII. NO sheriff or other officer, to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *fieri facias* shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco; provided there be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods or chattels of such defendant, within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *fieri facias*.

Names of slaves taken in execution to be endorsed thereon.

XVIII. WHERE any slave or slaves shall be taken in execution, and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue.

When a writ of *venditioni exponas* shall be issued.

XIX. IF the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

Form of the writ.

THE commonwealth, &c. greeting: We command you that you expose to sale, those goods and chattels of A. B. *to the value of* , *which, according to our command, you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our* *court, to satisfy* C. D. *the sum of* , *whereof in our said court he hath recovered execution against the said* A. B. *by virtue of a judgment in the said court; and that you have, &c."*

Slaves and live stock taken in execution to

XX. WHEN any sheriff or other officer shall serve any writ of execution on slaves, horses, or any live stock, and the same shall not be immediately replevied or restored to the

debtor, it ſhall and may be lawful for ſuch officers, and they are hereby required, to provide ſufficient ſuſtenance for the ſupport of ſuch ſlaves or live ſtock, until ſuch ſlaves or ſtock be ſold, or otherwiſe legally diſcharged from ſuch execution, and upon the return of any execution, the court may and ſhall upon the motion of the officer ſerving the ſame, ſettle and adjuſt what ſuch officer ſhall be allowed for his expences incurred by ſupporting ſuch ſlaves or ſtock; and the ſaid officers ſhall and may be allowed to retain the ſame out of the money ariſing from the ſale of the ſaid ſlaves or ſtock.

be ſupported by the officer.

Expence thereof to be paid out of the proceeds of the ſales.

XXI. IF any ſheriff ſhall levy an execution on property, and a doubt ſhall ariſe, whether the right of ſuch property is in the debtor or not, ſuch ſheriff may apply to the plaintiff, his attorney, or agent, for his bond with good ſecurity, for indemnification for the ſale of the property ſeized, which, if the plaintiff, his attorney, or agent refuſes or fails to do within a reaſonable time after ſuch application, the ſheriff or other officer ſhall be juſtified in delivering up ſuch property to the party from whoſe poſſeſſion the property was taken.

When the officer may demand of the plaintiff bond of indemnity for ſelling.

XXII. IF the goods or other eſtate taken in execution, cannot be ſold for three-fourths of their value at leaſt, in the opinion of the perſons hereafter directed to be appointed for that purpoſe, it ſhall and may be lawful for the debtor or debtors, or any of them, to enter into bond with ſufficient ſecurity, to be approved by the perſons aforeſaid, to pay the money or tobacco for which execution was ſo ſerved, and all coſts, with lawful intereſt for the ſame to ſuch creditor, within twelve months: And on ſuch bond being given, the ſheriff or other officer ſhall reſtore to ſuch debtor, the goods or eſtate ſo taken; and where no ſuch bond and ſecurity ſhall be offered, by the debtor, or any perſon for him, and the goods or other eſtate taken in execution, cannot in the opinion of the perſons aforeſaid, be ſold for three-fourths of their value at leaſt, the ſheriff or other officer, ſhall ſet up and ſell the ſame for money or tobacco, (as the caſe may be) to be paid at the end of twelve months, and ſhall take bond of the buyer or buyers, with one or more ſufficient ſecurities to pay the ſame accordingly, with intereſt, to ſuch creditor.

Where goods cannot be ſold for three-fourths of their value, the debtor may give bond and ſecurity to pay the debt within twelve months.

Or they may be ſold on 12 months credit.

XXIII. ALL and every bond or bonds ſo taken in purſuance of this act, ſhall mention that the ſame was or were entered into, for goods or other eſtate taken in execution, and returned to the debtor, or ſold to the obligor (as the caſe may be) and ſhall have the force of judgments, and ſhall alſo be aſſignable; and ſuch ſheriff or other officer taking ſuch bond, ſhall deliver the ſame to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence ſuch execution iſſued, there to be ſafely kept, until demanded by the creditor, or his attorney. And if the money or tobacco ſhall not be paid according to the condition of any ſuch bond, it ſhall be lawful for the creditor or his aſſignee, or the attorney of ſuch creditor or aſſignee, to lodge the ſame, with an affidavit, that the money or tobacco for which ſuch bond was given, or part thereof, is ſtill due, with the clerk of the court from whence the execution iſſued; and ſuch clerk ſhall and may thereupon iſſue an execution for ſo much as ſhall appear from the ſaid bond and affidavit to be ſtill due; and upon ſuch execution, the ſheriff or other officer ſhall not take any ſecurity, for the payment of the money or tobacco at a future day, but ſhall levy the ſame immediately, and ſell the property on which the execution ſhall be ſo levied, for the beſt price that can be had for the ſame.

Tenor of the bonds.

Proceedings thereon.

XXIV. IF any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or aſſignee of any ſuch obligee, (as the caſe may be) ſhall die before ſuch bond ſhall be fully paid, it ſhall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or adminiſtrators of any ſuch obligee or aſſignee, that the amount of ſuch bond is not diſcharged, to iſſue a writ of execution againſt every ſuch obligor or obligors, his or their executors or adminiſtrators, and to endorſe thereon "no ſecurity is to be taken." Any law to the contrary notwithſtanding.

Where the obligors or obligees die.

XXV. *PROVIDED*, That if on return of ſuch execution, the debtor can prove the payment of the money for which ſuch execution was levied, either to the aſſignee or original obligee, before notice of ſuch aſſignment (as the caſe may be) it ſhall and may be lawful for the court to quaſh ſuch execution, or give ſuch other judgment therein as to them ſhall ſeem right, and the perſon in whoſe names ſuch execution iſſued, ſhall moreover

Executions thereon, iſſued after payment of the money may be quaſhed.

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be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon such execution, that "no security shall be taken:" *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forth-coming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorised to receive any part of the public revenue, or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them, in any manner as sheriffs or public collectors; nor to attornies receiving the money of their clients; nor to securities under an act, intituled, "*An act to empower securities to recover damages in a summary way.*"

In what case such bonds shall not be taken.

Separate bonds for the surplus to be taken to the debtor.

XXVI. WHERESOEVER on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond with sufficient security, from the buyer or buyers, for the payment of such excess or surplus to the debtor, with legal interest at the end of twelve months, from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid; and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed, in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities.

XXVII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made, but in the presence of at least three of the said persons, except in the cases herein after mentioned. *Provided always*, That in any case where the creditor, his agent, or attorney shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the court to be held for the county or corporation within three months after the return day of the said execution, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion, that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each days attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned with the execution by the sheriff, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "that he will truly and impartially execute the trust reposed in him by this act."

Assignors of bonds given in pursuance of

XXVIII. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such

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execution there ſhall be a return by the ſheriff or other officer, that there were no goods, or not ſufficient goods of the obligor or obligors, to make the debt and coſts, it ſhall be lawful for the clerk who iſſued ſuch execution, to iſſue a ſecond execution againſt the aſſignor or aſſignors of ſuch bond, for the debt mentioned therein, or ſuch part thereof as ſhall appear to be ſtill due, on which execution there ſhall be ſimilar proceedings to thoſe on an execution againſt the original obligors.

this act, reſponſible if the obligors are inſufficient.

XXIX. WHERE any writ of *capias ad ſatisfaciendum* has been or ſhall be ſerved on any debtor, it ſhall be lawful for ſuch debtor to tender to the ſheriff or other officer ſerving the ſame, ſlaves or perſonal property to the value of the debt and coſts, for which ſuch execution has iſſued, or may hereafter iſſue, which property the ſaid ſheriff or other officer ſhall receive and proceed to ſell in like manner as is herein directed, in the caſe of goods taken in execution upon a writ of *fieri facias*, and ſhall thereupon diſcharge ſuch debtor out of cuſtody. *Provided always*, that if ſuch property ſo tendered, ſhall not be ſufficient to ſatisfy the debt or damages, and coſts, or ſhall be under any lien or incumbrance, ſo as that the whole cannot be ſold, a new *capias ad ſatisfaciendum*, or *fieri facias*, at the option of the plaintiff, ſhall iſſue for any balance, and the clerk of the court from which ſuch execution originally iſſued, ſhall upon the return of the ſheriff of the inſufficiency or incumbrance as aforeſaid, iſſue a new *capias ad ſatisfaciendum*, or *fieri facias*, if required. But where ſuch property ſhall have been under any incumbrance, the debtor ſhall not be at liberty to tender ſlaves or perſonal eſtate on a ſecond *capias ad ſatisfaciendum* being ſerved, or in caſe of a *fieri facias* iſſued in conſequence of ſuch return, to avail himſelf of the privileges of this act.

Debtors in execution may tender goods to the officer.

XXX. NOTHING in this act contained ſhall be conſtrued to extend to any proceedings that may be had in conſequence of any diſtreſs made, or to be made, for any rent reſerved and due, or which may hereafter become due upon any demiſe, leaſe or contract, whatſoever.

Nothing in this act to extend to diſtreſſes for rents.

XXXI. THE valuers ſhall be amenable to their reſpective county or corporation courts, and at the diſcretion of ſuch courts may be deprived of their office, for neglect of duty or malfeaſance therein; and upon the death, reſignation, or removal from office of any ſuch valuer, the vacancy ſhall be ſupplied by new appointment of the county or corporation court in which it ſhall happen.

Commiſſioners to be amenable to the county courts.

Vacancies how to be ſupplied.

XXXII. WHEN the ſheriff ſhall under any execution have fixed the time and place for the ſale of the property taken under ſuch execution, he ſhall ſummon three of the commiſſioners appointed to value the property, and aſcertain the ſufficiency of ſecurities, to attend at the time and place of ſuch ſale; if only two of the ſaid commiſſioners attend, they ſhall after the hour of two o'clock, chooſe one of the byſtanders to aſſiſt them in ſuch valuation; if only one of the ſaid commiſſioners ſhall attend, he ſhall at the ſame time, and in the ſame manner, chooſe one of the byſtanders, and they ſhall together, chooſe a third to value ſuch property as aforeſaid; if neither of the ſaid commiſſioners ſhall attend, the ſale ſhall be poſtponed until another day, which ſhall not be longer than ten days, when the ſame proceedings ſhall be had as are directed to take place on the day firſt appointed for the ſale. The ſheriff ſhall adminiſter the ſame oaths to the perſons choſen by the commiſſioners, as are directed by this act, to be adminiſtered to the commiſſioners by the county or corporation courts. *Provided always*, that the ſaid commiſſioners ſhall not be ſummoned upon any *fieri facias*, where the debt, or damages and coſts, ſhall not exceed thirty-three dollars, unleſs the defendant, his agent, attorney, or other legal repreſentative, ſhall require the ſame; and where the commiſſioners ſhall not be ſummoned, and the debt or damages ſhall not exceed the ſum aforeſaid, the ſale ſhall proceed, and the ſheriff or other officer poſſeſs and exerciſe the ſame power of valuation, as the commiſſioners would have poſſeſſed and exerciſed, had they been ſummoned, but ſhall receive no reward for ſuch valuation.

To be ſummoned to attend ſales.

Method of proceeding when they do not attend.

In what caſes they ſhall not be ſummoned, unleſs the defendants require it.

XXXIII. THE valuers ſhall make known in every caſe to any perſon requiring the ſame, before or at the ſale, the valuation by them made of the goods or other eſtate taken in execution; the ſheriff or coroner, (as the caſe may be) ſhall be allowed for taking the bonds to the creditor, ſixty-two cents, and no more; for proceeding to ſell, if the property be actually ſold or the debt paid, the commiſſion of five *per centum* on the firſt three hundred dollars, or ten thouſand pounds of tobacco, and two *per centum* upon all ſums above

Valuation of property to be made known to any perſon deſiring it.

Sheriff's fee for taking the bond; commiſſions.

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that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.

No principal to be received as security.

XXXIV. UPON actual sale of any property under this act, no principal debtor shall become the security.

Surplus money to be paid to the debtor.

XXXV. WHERESOEVER on a sale for cash or tobacco, made under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security, or securities, his or their executors or administrators, shall each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest and costs, levied on an execution.

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

XXXVI. WHEN any sheriff, or other officer under any execution, shall receive the whole, or any part of the money or tobacco for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators; in every such case, the sheriff or other officer, his executors or administrators, shall repay the person or persons against whom such execution issued, his or their executors, administrators or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff, or other officer, his or their executors, or administrators, shall fail or refuse when required, to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his, and their executors and administrators, and every of them, shall be liable to the like penalty and judgment, in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law, in favor of the plaintiff against the sheriff, for not paying money or tobacco levied on an execution.

When prisoners may have liberty of the rules.

XXXVII. IF any person or persons taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart, or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison, and return at their pleasure.

Method of insolvent debtors discharge.

XXXVIII. AND for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be of no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, that if any person shall hereafter be taken, or charged in execution, in any suit commenced, or prosecuted in any court of record within this commonwealth; it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution. And every such prisoner coming before the said court, judges or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:

Prisoners oath.

I, A. B. do in the presence of Almighty God, solemnly swear or affirm, (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my know-

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ledge and remembrance, a full, just, true and perfect account and discovery of all the estate, goods and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me, and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened, or otherwise disposed of in trust, or concealed all, or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom; or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me GOD.

XXXIX. WHICH schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices, (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall, or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, that notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered.

Prisoners discharge. But creditors may afterwards have executions against his estate. No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath, unless a *capias* be issued by order of the court.

XL. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein, as such prisoner hath, and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found; and such sheriff is hereby authorised, empowered and required, within sixty days after the taking the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel and utensils of trade. And if any sheriff or other officer shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner, and by the same persons, as if the said money had been levied by a *fieri facias*.

Debtors estate how to be disposed of.

XLI. WHEN any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain articles of money or tobacco, due to such prisoner, or of goods, chattels, or estates belonging to him, and in the possession of any other, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money, or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels or estate be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person, for the money, tobacco, goods, chattels or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels or estates, as he

His debts and effects how to be recovered.

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or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions, as in other cases, and to dispose of the money, tobacco, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule, is hereby directed to be disposed of.

XLII. *PROVIDED always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels or estates mentioned in the schedule, to be of the property of the prisoner, and in his possession, the sheriff or such prisoner, at any time after, unless barred by any of the acts, limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels and estates as the garnishee is thereby ordered to pay or deliver.

Sheriff to retain his expences out of the debtor's estate.

XLIII. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expences in recovering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court, and if such effects be not sufficient, he shall be reimbursed such expences by the creditor or creditors, if more than one, in proportion to their demands.

Insolvent debtors prison fees to be paid by the creditor.

XLIV. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison.

But may afterwards be recovered of the debtors.

XLV. *PROVIDED nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees, and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards, sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any.

Prison fees to be paid by the creditor, whose execution is first served.

XLVI. WHEN any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor, at whose suit such debtor was first taken.

Execution duly served, valid, although not directed to any sheriff.

XLVII. AN execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff.

Distringas in detinue may be superseded as to the specific thing.

XLVIII. IF a *distringas* issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of inquiry.

Sheriff liable when a replevy or forthcoming bond is quashed, as faulty.

XLIX. IF a replevy or forthcoming bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representative.

Penalty on sheriff for failing to return an execution.

L. AND whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof; *Be it enacted*, that where any writ of execution, or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of

a corporation at their discretion, in any sum not exceeding five dollars *per* month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

Method of proceeding against sheriff failing to pay money levied by executions.

LI. IF any sheriff, under sheriff, or other officer, shall make return upon any writ of *fieri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party, to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment, for not performing a decree in chancery for payment of any sum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her or them to escape, with the consent of such sheriff, under sheriff, or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *fieri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *fieri facias*, or *venditioni exponas*, with interest thereon, at the rate of fifteen *per centum per annum*, from the return day of the execution, until the judgment shall be discharged; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion.

Creditors to appoint agents in the counties in which executions are served.

LII. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, that where any execution shall be delivered to the sheriff of any other county, than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to, and receiving from the sheriff, any notices which may be necessary relating thereto, and payments made, and notices given to such agent, shall be as effectual, as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him: Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor. But such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing.

Executions may be issued on decrees in chancery.

LIII. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature in any court having chancery jurisdiction, the clerk of such court shall upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias*, *capias ad satifaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued, shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process, issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers, as if the said process had issued upon a judgment obtained at common law. But nothing herein

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contained, ſhall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner, in which he might avail himſelf before the paſſing of this act.

Goods on leaſed premiſes not liable to execution until the rent in arrear is paid or tendered.

LIV. NO goods or chattels whatſoever, lying or being in or upon any meſſuage, lands or tenements, which are or ſhall be leaſed for life or lives, term of years, or will, or otherwiſe, ſhall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretenſe whatſoever, unleſs the party ſo taking the ſame, ſhall, before removal of the goods from off ſuch premiſes, pay or tender to the landlord, or leſſor thereof, or his agent, all the money or tobacco due for the rent of the ſaid premiſes, at the time of taking ſuch goods or chattels in execution. *Proviſo.* *Provided nevertheleſs*, that ſuch rent arrears do not amount to more than one year's rent, and if more be due, then the party ſuing out ſuch execution, paying or tendering to ſuch landlord, or his agent, one year's rent, may proceed to execute his judgment; and the ſheriff or officer ſerving the ſame, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco ſo paid for rent as the execution money.

Repealing clauſe.

LV. ALL acts or parts of acts coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, That nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veſted, or incurred, prior to the commencement of this act.

LVI. *PROVIDED alſo*, That all executions iſſued under any former act, ſhall go on to be ſatisfied, or replevied as ſuch former act directs; and all twelve months or replevy bonds taken, or which ſhall be taken under any former act, ſhall have executions iſſued thereon, in like manner as is directed in caſes of twelve months, or replevy bonds to be taken under this act.

Commencement and duration of this act.

LVII. THIS act ſhall commence and be in force from and after the paſſing thereof, until the firſt day of *January*, one thouſand ſeven hundred and ninety-five.

C H A P. CLII.

An Act to amend the Act for regulating the Militia of this Commonwealth.

[Paſſed the 2d of December, 1793.]

Preamble.

I. WHEREAS it is repreſented to this preſent General Aſſembly, that many county and corporation courts in this commonwealth, have failed to recommend proper perſons for officering the militia of the ſeveral regiments, battalions and companies within their reſpective juriſdictions, according to the directions of the act, intituled, "*An act for regulating the militia of this commonwealth*," and it is expedient that the ſaid act ſhould be carried into full effect:

County and corporation courts to recommend officers.

II. *BE it therefore enacted*, That the ſeveral county and corporation courts, ſhall, and they are hereby required, on or before their reſpective courts, to be held in the month of *May* next, recommend to the governor and council the officers neceſſary to compleat the regiments, battalions and companies within their reſpective juriſdictions, purſuant to the directions of the above recited act, recommending the ſaid officers according to their grades and ſeniority within their reſpective companies; and in caſe of failure herein, each and every juſtice ſo failing, ſhall forfeit and pay ten dollars, to be recovered as other penalties incurred by law, for failing to diſcharge the duties of their reſpective offices; one moiety whereof ſhall be applied to the uſe of the commonwealth, in aid of the contingent fund, and the other to the uſe of the informant or perſon ſuing for the ſame.

Penalties for neglect.

Vacancies, how to be ſupplied.

III. *AND be it further enacted*, That all vacancies hereafter happening in the officers of the militia of this commonwealth, ſhall be ſupplied by appointment of the governor, with the advice of the privy council, on recommendation from the reſpective county and corporation courts. Any thing in the ſaid recited act to the contrary, notwithſtanding.

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IV. SO much of the said act as authorises the adjutant-general to convene the inspectors of brigades for the purpose of receiving instructions, shall be, and the same is hereby repealed.

Part of the act of 1792 repealed.

V. *AND be it further enacted*, That the commissioned officers of the several regiments shall meet twice in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors. The days and places of meeting to be fixed on by the commanding officers of the brigades to which the regiments belong. The officers thus assembled, shall each continue two days, and no longer, every time they shall be called out. Every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by a court martial, shall forfeit and pay five dollars, to be appropriated as the other fines are by the said act.

Commissioned officers to be trained and instructed.

VI. *AND be it further enacted*, That the seventh section of the said recited act, shall be, and is hereby repealed.

Part of the act of 1792 repealed.

VII. *AND be it further enacted*, That instead of a fine of fifty cents upon any non-commissioned officer or soldier, for failing to appear at muster, according to the directions of the above recited act, a fine of seventy-five cents shall be imposed. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may, if it appear reasonable, from the indigent circumstances of the delinquent, remit the fine incurred by him; provided every such delinquent, who hath a firelock of any kind, shall make it appear, that he brought the same to the muster.

Fines on non-commissioned officers and soldiers for not attending musters.

VIII. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian or master.

On infants and apprentices.

IX. THERE shall be a muster of each company of militia once in every two months, except the months of *December*, *January*, *February*, and *March*, in every year.

Musters of companies.

X. AND whereas it is improper that the militia in the frontier counties, should be drawn from their dwellings in times of danger, merely for the pupose of training; *Be it enacted*, That the commanding officers of the brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in such companies, battalions or regiments within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Training the militia in frontier counties may be dispensed with.

XI. LISTS of fines shall be delivered to the sheriffs on or before the thirty-first day of *December*, instead of the first day of *January* in every year.

Lists of fines, when to be delivered to the collectors.

XII. THE exemption of millers from militia duty, under the above recited act, shall be construed only to extend to such persons as are actually and necessarily employed in the management of water grist mills, legally established.

Exemption of millers from militia duty;

XIII. ALL ferrymen, actually and necessarily employed as such, shall be, and they are hereby exempted from militia duty.

Of ferrymen;

XIV. AND all Quakers and Menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from actual service in the militia; provided they shall furnish a substitute for such services, to be approved of by the commanding officer of the company.

Of Quakers & Menonists.

XV. *AND be it further enacted*, That so much of the above recited act, as relates to the exemption of Quakers and Menonists from militia duty, is hereby repealed.

XVI. *AND be it further enacted*, That the county of *Loudoun* shall compose two regiments and four battalions; that the counties of *Berkeley*, *Culpeper*, *Shenandoah*, *Fauquier*, *Accomack*, *Amherst*, *Norfolk*, *Halifax*, *Pittsylvania*, *Dinwiddie*, *Mecklenburg*, *Bedford*, *Al-*

Division of the militia into regiments and battalions.

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bemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover, and *Frederick*, shall compose two regiments and four battalions each; that the counties of *Middlesex* and *Essex*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Richmond* and *Westmoreland*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Powhatan* and *Cumberland*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Harrison* and *Randolph*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Charles City* and *New Kent*, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of *Elizabeth City* and *Warwick*, one battalion; and the counties of *York* and *James City*, one battalion, which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of *Richmond* and borough of *Norfolk*, shall compose each one regiment, and two battalions.

Number of men in each company.

XVII. A COMPANY of militia established by virtue of the above recited act, shall not exceed one hundred, nor less than fifty rank and file. Whensoever any company district shall contain more than one hundred persons, subject to be inrolled in the militia, by the captain or commanding officer thereof, the same shall be divided into two districts, to be established in the same manner, as other districts are established by the said act; which new district thus formed, shall constitute an additional company, to the battalion of which it is a part.

Further time allowed for forming battalion and company districts.

XVIII. AND whereas the officers of the militia in several counties of this commonwealth, have failed to arrange their respective counties into districts for the formation of the several battalions and companies, established by the "*Act for regulating the militia of this commonwealth:*" *Be it enacted*, that a further time of eight months, from the passing of this act, shall be allowed the said officers for arranging the proper districts, pursuant to the directions of the above recited act. The several battalions and companies established by this act, shall be arranged into districts in the same manner as the battalions and companies established by the above recited act.

Part of the act of 1792 respecting light companies, repealed.

XIX. *AND be it further enacted*, That so much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, shall be composed of men from eighteen to twenty-five years of age, be, and the same is hereby repealed.

Rules respecting ages of persons to be inrolled.

XX. *AND be it further enacted*, That in all cases of doubts respecting the age of any person inrolled, or intended to be inrolled in any company of militia, the party questioning, shall prove his age to the satisfaction of the officers of the company, within whose bounds he may reside, or a majority of them.

Respecting inrolling militiamen removing out of the bounds of their companies.

XXI. *AND be it further enacted*, That every militia-man removing out of the bounds of one company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company, in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to inroll him in the numerical class, specified in the said certificate. And if the militia-man shall fail to produce the certificate as above directed, he shall be inrolled in the class destined to perform the next tour of duty, and the commanding officer of the company refusing to grant a certificate upon application to him made, shall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines imposed by this act.

Money arising under the militia law, how to be appropriated.

XXII. *AND be it further enacted*, That all monies passing into the treasury of this commonwealth, by virtue of this act, and the act "*For regulating the militia of this commonwealth*," shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state; the surplus, if any, to be subject to such other appropriations as the General Assembly may from time to time appoint and direct; and the treasurer of the commonwealth shall keep all the monies arising from fines under the militia law, separate from all other monies, and keep a separate

book of the same, and the expenditures thereof; any thing in any former law to the contrary hereof notwithstanding.

XXIII. *AND be it further enacted*, That the governor shall cause a sufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by establishing an uniform militia throughout the United States*," to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy. Copies of the laws respecting the militia to be furnished to the officers.

XXIV. AND whereas it sometimes happens that the arsenal and other public property is protected by militia, enlisted for a fixed period, in preference to draughts therefrom: And whereas doubts have arisen, whether guards of the above description are comprehended in the thirty-first section of the militia law; *Be it enacted*, that the said section does comprehend the militia, when called into service, by enlistment for fixed periods, in like manner, as if they were employed in the usual manner. Pay, &c. of the militia enlisted for fixed periods.

XXV. *AND be it enacted*, That whenever the public service shall require the employment of militia by water, that the said service shall be performed for the same pay and under the same regulations, as is given and established with respect to service by land. When employed by water.

XXVI. *AND be it further enacted*, That the commanding officer of every battalion of militia, or the oldest captain in the county where no commanding officer of a battalion shall reside, shall from time to time, as he shall deem it necessary, appoint an officer and so many men of the militia, as to him shall seem necessary, once in every month, or oftener, if thereto required by such officer, to patrole and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and take them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrole, the officer of every party shall, once in every month at least, return a report in writing upon oath, to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrole; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed. Patrollers, how to be appointed; their duty; pay.

XXVII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

XXVIII. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. CLIII.

An Act supplementary to the Act, to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 10th of December, 1793.]

I. BE *it enacted by the General Assembly*, That the governor with the advice of council, shall be, and he is hereby authorised and required, to commission the several major-generals, brigadier-generals and adjutant-general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth*." General officers, how to be commissioned.

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How qualified.

II. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit:

I, do swear, that I will be faithful and true to the commonwealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of of the militia of* Virginia, *according to the best of my skill and judgment:* So help me GOD."

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIV.

An Act to amend the Act, intituled, "An Act for reducing into one, the several Acts for regulating the Inspection of Tobacco.

[Passed the 6th of December, 1793.]

Tobacco brought from upper to lower warehouses for storeage, when to be sold by the inspectors.

I. BE *it enacted by the General Assembly*, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storeage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, "*An act for reducing into one, the several acts of Assembly for the inspection of tobacco.*"

Tobacco burnt in the public warehouses to be paid for by the public.

Proviso.

II. *AND be it further enacted*, That where any warehouse established by the former or present session of Assembly, or which shall be established by any future session of Assembly, shall happen to be burnt, the loss sustained thereby shall be made good and repaid to the several persons injured, by the General Assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given. *Provided always*, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for storeage, shall be of an older date than six months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Inspectors to receive the full amount of their salaries when the tobacco inspected, if shipped would have produced a sufficiency.

III. *AND be it further enacted*, That it shall and may be lawful for the inspectors annually to present to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouses are respectively situated, ascertaining the quantity of tobacco received into such warehouse or warehouses, and also the quantity shipped in each year; and thereupon, if it shall appear to the auditor that provided all the tobacco so received within the space of the year, had been shipped by the owners, that there would have been a sufficient sum received to have discharged their respective salaries as established by law, then and in such case it shall and may be lawful for the auditor to issue his warrant for the amount of their respective salaries, to be paid out of any money in the public treasury, arising from the surplus on tobacco; any law to the contrary notwithstanding.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLV.

An act to amend the Act, intituled, "An Act reducing into one, the several Acts for regulating the Inspection of Flour and Bread."

[Passed the 4th of December, 1793.]

I. BE *it enacted*, That all casks wherein flour shall be packed, shall be weighed, and the tare marked thereon. And if any person shall put a false or wrong tare on any cask of flour, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents, and the inspector, or his deputy, or assistant, upon suspicion, or at the request of the purchaser, shall and is hereby required to unpack any cask of flour, and if the cask wherein flour is packed, be falsely tared, the miller or bolter shall pay the charges of unpacking and repacking, over and above the penalties imposed by this act, and by the act, intituled, "*An act reducing into one, the several acts for regulating the inspection of flour and bread*," but otherwise the said charges shall be paid by the inspector or the purchaser, if the trial be made at his request. The penalty hereby imposed, shall and may be recovered, and shall be payable as in the said recited act is directed, of, and concerning the penalties therein imposed.

Casks to be weighed and tare marked thereon. Penalty for a false tare.

How recoverable.

II. THAT part of the penalties which is to go to the use of the commonwealth, shall be paid to the inspector at the place where the offence shall be discovered, who shall annually to the court of his county, held in the month of *September*, render a fair and just account thereof, upon oath, a copy whereof shall be certified by the said court, and being so certified, shall be transmitted to the auditor of public accounts, by their clerk, who shall debit the said inspector therewith, and the said inspector shall annually pay the amount thereof, after deducting a commission after the rate of six *per centum*, into the public treasury, on or before the first day of *January* in each year; and in case of failure to make such payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent sheriffs. An account in like manner, shall be rendered by each inspector, at the next *September* court held in his county, of all the penalties heretofore paid to him, to be certified and transmitted as aforesaid, and he shall thereafter pay the part belonging to the commonwealth, in like manner, and he shall be entitled to the same commission, and be liable in case of failure of payment, to the same proceedings, as is herein before directed and prescribed in other cases.

That part of the penalties payable to the commonwealth how to be collected and accounted for.

III. EVERY inspector failing to render the account herein before required, at the time, and in the manner herein before mentioned, shall be incapable of being reappointed to the said office of inspector of flour, by his said county court.

Penalty on inspectors failing to render accounts of penalties received.

CHAP. CLVI.

An Act for amending the Act, intituled, "An Act for reducing into one, the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees and County Levies.

[Passed the 4th of December, 1793.]

I. WHEREAS that part of the sixteenth section of the act of last session of Assembly, intituled, "*An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies*," which empowers the judges of the superior courts (the general court excepted) to make such allowances from time to time to their respective officers as they shall think reasonable, taking into account the time past for which no allowance hath been made by the General Assembly, hath been construed to empower the judges of the district courts to make the said allowances:

Preamble.

II. *BE it therefore enacted*, That the said part of the sixteenth section shall be, and is hereby repealed; except so far as it may relate to the high court of appeals and high court of chancery.

Part of the act of 1792 repealed.

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Fees allowed to the clerk of the high court of chancery.

III. AND whereas it appears that sundry services of the clerk of the high court of chancery, formerly provided for, are not noticed in the said recited act of the last session of Assembly; *Be it further enacted*, that it shall and may be lawful for the clerk of the said high court of chancery, in addition to the fees allowed him by the said recited act, to demand, receive, and take the several fees hereinafter mentioned and allowed for any business by him done since the passage of the said recited act, or hereafter to be done by virtue of his said office, that is to say:

	Dols.	Cts.
For every writ of *supersedeas* or *scire facias*,	0	43
For taking bond on issuing a writ of *supersedeas*, *certiorari*, or for an appeal, or any other bond,	0	43
For every other writ whatsoever,	0	35
For entering the sheriff's return in the rule book,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court,	0	18
For a copy of the same,	0	18
For filing papers for each party,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For entering every continuance on the docket,	0	18
For the filing a declaration and every plea or demurrer in any cause to the making up of an issue, directed by the high court of chancery, to be tried at the bar of the said court,	0	35
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18

To public notaries.

IV. AND whereas it also appears that some of the fees to public notaries, formerly provided for by law, have been omitted in the act of last session, intituled, "*An act for appointing public notaries*;" *Be it therefore further enacted*, that it shall and may be lawful for every public notary, in addition to the fees allowed him by the said last recited act, to demand, receive, and take the following fees, to wit; for every attestation, protestation, and all other instruments of publication, under his seal of office, the sum of eighty-seven cents, and no more.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLVII.

An Act to amend the Act, intituled, "An Act concerning Coin, and for other Purposes."

[Passed the 6th of December, 1793.]

Part of the act of 1792 respecting German gold & cut silver repealed.

I. BE *it enacted by the General Assembly*, That so much of the act, intituled, "*An act concerning coin, and for other purposes*," as relates to *German* gold and cut silver coin, shall be, and is hereby repealed.

Commencement of this act.

II. THIS act shall commence in force, from and after the first day of *March* next.

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C H A P. CLVIII.

An Act to amend the Act, "Concerning Grand-Juries, Petit-Juries, and Venire-Men."

[Passed the 9th of December, 1793.]

I. WHEREAS, under the existing law, concerning grand-juries, petit-juries, and venire-men, the grand-juries of the district, county, and corporation courts, are not in positive and explicit terms directed to be citizens of this state, whereby it hath sometimes happened, that persons not citizens of this commonwealth, have been summoned and impannelled as grand-jurors in the said courts: For remedy whereof, Preamble.

II. *BE it enacted,* That hereafter every grand-juror, summoned to attend any district, county, or corporation court, or impannelled to serve in the same, shall, in addition to the other requisites prescribed by the said act, "*Concerning grand-juries, petit-juries, and venire-men,*" be also a citizen of this commonwealth. Grand-Jurors must be citizens.

III. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

C H A P. CLIX.

An Act to amend an Act, reducing into one, the several Acts to oblige Vessels coming from Foreign Parts to perform Quarantine.

[Passed the 5th of December, 1793.

I. WHEREAS by the act, intituled, "*An act reducing into one, the several acts to oblige vessels coming from foreign parts to perform quarantine,*" no provision is made to compel persons coming into this commonwealth by land, from places infected with contagious diseases, to perform quarantine: For remedy whereof, Preamble.

II. *BE it enacted,* That the governor, with advice of the council, shall appoint persons to superintend the performance of quarantine, in such places, and from time to time, as he shall judge necessary; the person so appointed, shall examine all persons coming into this commonwealth by land, from places infected with any contagious diseases, and compel them to perform a quarantine of so many days, and under such regulations, as shall be directed and prescribed by the governor, with advice of council, for the preservation of the health of the citizens of this commonwealth. Superintendants of quarantine to be appointed for persons coming by land into the state from infected places.

III. AND whereas by the said act, the master or owner of a vessel is compelled to defray the expences attending their vessel, after quarantine is performed, which in some cases is unreasonable: *Be it therefore enacted,* that the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of such expences, whenever he shall think it right and just so to do. Executive may exempt owners of vessels from payment of expences of quarantine.

IV. *AND be it further enacted,* That the vessels which have lately performed quarantine, be, and they are hereby released from the payment of the charges which accrued thereon. Vessels which have lately performed it, exempted from expences.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

1793.

C H A P. CLX.

An Act to amend the Act, intituled, "An Act for ascertaining the Salaries to the Officers of Civil Government."

[Passed the 6th of December, 1793.]

Part of the act of 1792 repealed.

I. BE *it enacted*, That so much of the act of the last session of the General Assembly, intituled, "*An act for ascertaining the salaries of the officers of the civil government*," as relates to the salary of the clerk of the general court, shall be, and the same is hereby repealed.

Salary of the clerk of the general court for ex-officio services.

II. *AND be it further enacted*, That the clerk of the said court shall receive for his ex-officio services, the sum of two hundred and fifty dollars *per annum*.

Vacancy during vacation, how to be supplied.
Present clerk to continue in office till the next court.

III. IN case of a vacancy in the office of clerk of the general court, during vacation, any three judges of the said court (of whom the senior justice shall be one) shall appoint a clerk, who upon taking the oath required by law, before any justice of the peace, shall continue in office, until a clerk shall be appointed by the said court. *Provided nevertheless*, That the clerk of the general court now in office, may continue to hold the same until the next meeting of the general court; any thing in any law to the contrary thereof, notwithstanding.

Allowance to the chancellor for employing a clerk.

IV. *AND be it further enacted*, That the present judge of the high court of chancery, shall during his continuance in office, be allowed a sum, not exceeding two hundred and fifty dollars *per annum*, for the purpose of employing a clerk.

Commencement of this act.

V. THIS act shall commence in force, from and after the first day of *January* next.

C H A P. CLXI.

An Act to amend an Act, intituled, "An Act to empower the High Sheriffs to proceed in a summary Way, against their Deputies."

[Passed the 11th of December, 1793.]

Preamble.

I. WHEREAS the laws heretofore passed, have in many instances been found inadequate to indemnify the sheriffs of this commonwealth against the conduct and default of their deputies, and in most cases they have been obliged to submit to a recovery first had and obtained against them before they could legally proceed against their deputies, whereby much injury and injustice has arisen to the sheriffs: *Be it therefore enacted*, that where any fine, amercement, penalty or judgment, has been assessed or rendered, or which may be assessed or rendered against any sheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors or administrators, for or on account of any default or misconduct of any deputy of such sheriff, it shall and may be lawful for the court of the county, whereof such sheriff hath been, now is, or shall be sheriff, or for the district court including such county, upon motion to them made by such sheriff, his heirs, executors or administrators, to give judgment against such deputy, and his securities, their heirs, executors or administrators, for the full amount of all such fines, amercements, penalties or judgments, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion.

Sheriff's remedy against his deputy, & his executors and securities after judgment against such sheriff.

When he may obtain judgment against his deputy, &c. before judgment is rendered against himself.

II. *AND be it further enacted*, That where any deputy sheriff heretofore or now in office, or which may hereafter come into office, hath been or shall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by such deputy, by virtue of his office, and for which the principal of such deputy, his heirs, executors or administrators, is or may be chargeable, and shall not immediately pay or deliver the same to the person or persons entitled thereto, it shall and may be lawful for either of the said courts, upon motion to them made by such sheriff, his heirs, executors or administrators, to give the same judgment against such deputy, and his securities, their heirs, execu-

tors or adminiſtrators, as ſuch ſheriff, his heirs, executors or adminiſtrators, might by motion againſt him or them, on account of ſuch arrears, miſconduct or default, be liable to, and to award execution for the ſame; provided that ſuch deputy and his ſecurities, their heirs, executors or adminiſtrators, have ten days previous notice of ſuch motion. *Provided nevertheleſs*, that no deputy ſheriff, his heirs, executors or adminiſtrators, ſhall be ſubject to a motion made by the principal of ſuch deputy, his heirs, executors or adminiſtrators, where a recovery has been had, or may be obtained againſt ſuch deputy ſheriff, his heirs, executors or adminiſtrators, by any perſon or perſons whatſoever, before ſuch motion. Proviſo. Proviſo.

III. *AND be it further enacted*, That on all executions iſſuing on judgments obtained by any ſheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or adminiſtrators, againſt any deputy heretofore or now in office, or which may hereafter come into office, and his ſecurities, their heirs, executors or adminiſtrators, or either of them, the clerk iſſuing ſuch execution, ſhall, for the direction of the officer, to whom the ſame is directed, endorſe, that "no ſecurity is to be taken," and ſuch officer on levying the ſame, ſhall govern himſelf accordingly. No ſecurity to be taken on judgments obtained by ſheriffs againſt their deputies, &c.

IV. ALL acts or parts of acts coming within the purview of this act, ſhall be, and are hereby repealed. Repealing clauſe.

V. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CLXII.

An Act to fix the Time of Meeting of the General Aſſembly.

[Paſſed the 6th of December, 1793.]

BE *it enacted*, That the meeting of the General Aſſembly, ſhall hereafter be on the ſecond Tueſday in *November*, in every year; any law to the contrary thereof, notwithſtanding.

CHAP. CLXIII.

An Act for regulating the Police of Towns in this Commonwealth, and to reſtrain the Practice of Negroes going at Large.

[Paſſed the 10th of December, 1793.]

I. WHEREAS great inconveniencies have ariſen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact ſlaves: For remedy whereof, Preamble.

II. *BE it enacted by the General Aſſembly*, That from and after the paſſing of this act, every free negro or mulatto, who reſides in, or is employed to labour within the limits of any city, borough, or town, ſhall be regiſtered and numbered in a book to be kept for that purpoſe by the clerk of the ſaid city, borough, or town, which regiſter ſhall ſpecify his or her age, name, colour and ſtature, by whom, and in what court the ſaid negro or mulatto was emancipated; or that ſuch negro or mulatto was born free. A copy of the ſaid regiſter, ſigned by the clerk, and atteſted by one alderman or town magiſtrate, ſhall be annually delivered to the ſaid negro or mulatto, for which copy the clerk ſhall receive twenty-five cents, to be paid by the perſon receiving the ſame. Free negroes and mulattoes reſiding or employed in certain towns &c. to be regiſtered and numbered; and each of them annually furniſhed with a certificate thereof.

III. ANY perſon harbouring or employing any negro or mulatto, who has not a certified copy of the ſaid regiſter, ſhall forfeit and pay for each offence five dollars to the owner of ſuch negro or mulatto, and if there be no owner, to the informer; to be recovered by warrant before any alderman or magiſtrate, and ſhall be moreover liable to an action for damages at the ſuit of the party grieved. Penalty for employing them without,

IV. *AND be it further enacted*, That in caſe any negro or mulatto, who reſides in or is employed to labour, in any city, borough, or town, ſhall neglect to procure ſuch certificate, it ſhall be lawful for any alderman or magiſtrate, to commit to jail ſuch negro or mulatto, there to remain till ſuch copy is produced and the jailor's fees paid. Magiſtrates to commit thoſe who neglect to procure ſuch certificates.

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Free negroes and mulattoes in the country not to go at large or hire themselves without being registered, &c.

V. AND for the prevention of free negroes and mulattoes going at large in the several counties of this commonwealth, *Be it further enacted*, That no free negro or mulatto shall be allowed to go at large, or hire himself or herself to labour in any county, without having his or her certificate registered in the clerk's office of the county wherein he or she resides, and having a certified copy of the said certificate. For registering and granting such certificate, the clerk shall be allowed twenty-five cents.

Penalty for employing them without.

VI. ANY person employing or harbouring any negro or mulatto, coming within the purview of this act, shall forfeit and pay for each offence five dollars, to the use of the informer, to be recovered by a warrant before a justice of the peace, and shall be moreover liable to an action for damages at the suit of the party grieved.

To renew their certificates once in three years.

VII. EVERY such free negro or mulatto, shall once in every three years, obtain a new certificate, under the same rules and regulations, as are prescribed for obtaining the first.

Or may be committed to jail

VIII. AND in case any negro or mulatto, who resides in or is employed to labour in any county, shall neglect to procure such certificate, it shall be lawful for any magistrate in the said county to commit to jail such negro or mulatto, there to remain till such certificate is produced and the jailor's fees paid.

Commencement of this act.

IX. THIS act shall commence and be in force, from and after the first day of *January* next.

C H A P. CLXIV.

An Act to prevent the Migration of Free Negroes and Mulattoes into this Commonwealth.

[Passed the 12th of December, 1793.]

How they may be apprehended and sent out of the state.

I. BE *it enacted*, That it shall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who shall come into this commonwealth contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken; which justice is hereby authorised to examine, send and remove every such free negro or mulatto out of this commonwealth, into that state or island from whence it shall appear he or she last came; and for this purpose, the sheriff or other officer, and other persons, may by such justice be employed within the commonwealth, upon the same terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who shall come or be brought into this commonwealth by water from any country, state or island, may and shall be exported to the place from whence he or she came, or was brought, and the charges attending the same shall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

Penalty for bringing them into the state.

II. EVERY master of a vessel, or other person who shall bring into this commonwealth by water or by land, in any vessel, boat, land carriage, or otherwise, any free negro or mulatto, shall forfeit and pay for every such person so brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the person who shall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every such case shall be ruled to give special bail.

Exception.

III. THIS act shall not extend to masters of vessels bringing into this state any free negro or mulatto employed on board and belonging to such vessel, and who shall therewith depart, nor to any person travelling into this state, having any free negro or mulatto as a servant.

Slaves brought from Africa or the West-India islands to be sent out of the state.

IV. *AND be it further enacted*, That in case any slave shall be brought or come into this state from *Africa* or the *West-India* islands, directly or indirectly, upon information thereof given to any justice of the peace, it shall be his duty to cause such slave to be apprehended immediately and transported out of this commonwealth, and the expence attending

such transportation, shall be paid by the person importing such slave, recoverable in the name of the justice directing such slave to be transported, by warrant before a single magistrate.

V. THIS act shall commence and be in force, from and after the first day of *January* next. Commencement of this act.

CHAP. CLXV.

An Act for establishing several new Ferries.

[Passed the 22d of November, 1793.]

I. BE *it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of *Moses Sutton*, in the county of *Harrison*, across the west fork of *Monongahela* river, to the land of *John Owen* on the opposite shore, the price for a man four cents, and for a horse the same; from the land of *John Keller*, in the county of *Hampshire*, across *Patterson's* creek, to his land on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *John Hix*, in the county of *Campbell*, across *Staunton* river, to the land of *Joseph Eckhols*, deceased, on the opposite shore, the price for a man four cents, and for a horse the same; from the commons in the town of *Milton*, across *Rivanna* river, to the lands of *Thomas Mann Randolph*, junior, on the opposite shore, (to be kept by *Jacob Oglesby*) the price for a man four cents, and for a horse the same; from the land of *Benjamin Lewis*, across *Greenbrier* river, to the land of *John Stuart* on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *Christiana, Selser*, in the county of *Monongalia*, across *Cheat* river, to her land on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of *Thomas Reade Rootes*, in the county of *Hanover*, across *Pamunkey* river, to his land on the opposite shore, the price for a man four cents, and for a horse the same.

Public ferries established across the west fork of *Monongabela* river, *Patterson's* creek and *Staunton*, *Rivanna*, *Greenbrier*, *Cheat*, and *Pamunkey* rivers.

II. AND for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of nett cattle, as for one horse; and for every sheep, goat, lamb, or hog, one fifth part of the ferriage for one horse, and no more. Rates.

III. IF any ferry keeper shall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and two dollars; to be recovered with costs before a justice of the peace of the county, where the offence shall be committed. Penalty for demanding more than the legal rates.

IV. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

1794.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Tuesday*, the 11th Day of *November*, in the Year of our Lord, 1794.

CHAP. CLXVI.

An Act concerning Appointments to Civil Offices.

[Passed the 24th of November, 1794.]

I. BE *it enacted by the General Assembly*, That no senator or delegate, shall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which shall have been created, or the emoluments whereof shall have been encreased or decreased during such time.

Commencement of this act.

II. THIS act shall be in force from and after the passing hereof.

CHAP. CLXVII.

An Act concerning granting Appeals from Decrees in Chancery.

[Passed the 29th of November, 1794.]

Mode of obtaining appeals from decrees of the county courts in chancery, to the high court of chancery.

I. BE *it, and it is hereby enacted by the General Assembly of the Commonwealth of Virginia*, That whensoever any person or persons, body politic or corporate, shall think himself or themselves aggrieved by the decree or final order of any county or corporation court sitting in chancery, in any suit or controversy whatsoever, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of thirty-three dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order, such person or persons, body politic or corporate, being a party defendant, may enter an appeal to the high court of chancery from such decree or final order, and before granting any such appeal, the party praying the same being a defendant, or some other responsible person, shall enter into bond with sufficient security in a reasonable penalty, with condition to satisfy and pay the amount recovered in the county or other court aforesaid, and all costs, and to perform in all things the said decree or final order in case the same be affirmed.

From decrees of the high court of chancery to the court of appeals.

II. AND in like manner and under the like regulations, an appeal may be prayed and granted unto a defendant from any decree or final order of the high court of chancery unto the court of appeals, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of one hundred dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order.

Commencement of this act.

III. THIS act shall commence and be in force from the passing thereof, but shall not be construed to extend to any appeals heretofore allowed and granted.

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C H A P. CLXVIII.

An Act to amend an Act, intituled "An Act declaring what shall be Treason; for punishing certain Offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same."

[Passed the 2d of December, 1794.]

I. BE *it enacted by the General Assembly*, That the Governor, or in case of his absence, inability, or death, the Councillor who acts as president shall in no wise have or exercise a right of granting pardon to any person or persons convicted of treason against the commonwealth, but may suspend the execution until the meeting of the General Assembly, who shall determine whether such person or persons are proper objects of mercy or not, and order accordingly.

By whom, & how persons convicted of treason may be pardoned.

II. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

C H A P. CLXIX.

An Act to amend the Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.

[Passed the 3d of December, 1794.]

I. WHEREAS it is suggested to the General Assembly of *Virginia*, that there is no ordained minister of the gospel in regular communion with any society of christians, or other person residing in either of the counties of *Lee* or *Randolph*, authorised to celebrate the rites of matrimony between persons desirous of entering into that state, whereby the inhabitants of the said counties are exposed to great inconvenience, and in many instances to considerable personal danger, as persons desirous of contracting matrimony, are, in order to have the ceremony legally performed, obliged to travel a considerable distance over mountains difficult to pass, and often infested with hostile Indians:

Preamble.

II. *BE it therefore enacted by the General Assembly of Virginia*, That from and after the passing of this act, it shall and may be lawful for the courts of the said counties to appoint two persons in each of the said counties, who shall be residents within the county from the court whereof they shall have received their appointments, who by virtue of this act shall be authorised to celebrate the rites of marriage wherein they respectively reside.

Courts of certain counties to appoint persons to celebrate the rites of matrimony in their respective counties.

III. THAT every person so appointed, before entering into the execution of his office, shall take the oath of fidelity to the commonwealth, and enter into bond with sufficient security, in the sum of fifteen hundred dollars, payable to the governor for the time being, and his successors, for the true and faithful performance of his trust, whereupon, such court is hereby required to grant to the person so appointed, a certificate in the following form, given under the hand and seal of the then sitting judge, or senior magistrate, and attested by the clerk, to wit:

Persons so appointed, how to be qualified.

THIS shall certify to all whom it may concern, that at a court held for the county of on the day of in the year of our Lord , A. B. *took the oath of fidelity to this commonwealth, and having entered into bond and security, agreeable to an act, intituled,* " An act, to amend the act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy," *is hereby authorised to celebrate within the county of* , *the rites of marriage between persons desirous of contracting the same:*

Form of certificate to be given them.

And every testimonial so obtained, shall be considered as a good and sufficient authority to celebrate the rites of marriage within the county from the court whereof the testimonial is obtained, between persons regularly applying therefor.

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Not to marry persons without publication of banns, or a license. To be subject to the same penalties for breach of their duty as ordained ministers.

IV. *PROVIDED*, That any person so appointed, shall in no instance celebrate the rites of marriage, until the due publication of banns, or in consequence of a license duly obtained: And if he should celebrate the rites of marriage when forms and provisions of law have been dispensed with, which are necessary to be observed when marriage is celebrated by an ordained minister, he shall be subject to the same penalties as are in such instances inflicted on ordained ministers, recoverable in the manner, and liable to the action of the party aggrieved, as is directed by the act, intituled, "*An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.*"

Removing out of the county, others to be appointed in their stead.

V. AND if any person so appointed by the courts aforesaid, or either of them, shall die or remove out of the county, it shall be lawful for the said courts or either of them, to appoint some person in lieu of the person so dying or removing, who shall qualify to the performance of his trust in the manner before directed, and shall be subject to the same penalties and actions, and by the same mode of recovery above pointed out.

To be allowed the same fees as ordained ministers. To return to the clerk's offices certificates of the marriages celebrated by them.

VI. *AND be it further enacted*, That any person appointed to celebrate the rites of marriage by virtue of this act, shall be entitled to the same fees and liable to the same actions, in case of refusal to celebrate the same between persons legally applying therefor, as are given to or against ordained ministers in similar circumstances by virtue of the above recited act, and that he shall return to the clerk of the county a certificate of every marriage by him celebrated, a record whereof shall be kept by the clerk as is directed by law when the marriage ceremony has been performed by an ordained minister.

C H A P. CLXX.

An Act to amend an Act, "Reducing into one the several Acts concerning Wills, the Distribution of Intestates Estates, and the Duty of Executors and Administrators."

[Passed the 5th of December, 1794.]

What portion of the father's estate shall be allotted to children born after the making of their father's will, in which they are pretermitted, where they are not provided for by settlement.

I. BE *it enacted by the General Assembly*, That if a testator having a child or children born at the time of making and publishing his last will and testament, shall at his death leave a child or children born after the making and publishing of his said last will and testament, the child or children so after born, if such child or children be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate as such child or children would have been entitled to if the father had died intestate; towards raising which portion the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament, in the same manner as is provided in the case of posthumous children.

II. AND whereas by an act, intituled, "*An act reducing into one, the several acts concerning slaves, free negroes, and mulattoes,*" it is enacted, "That all negro and mulatto slaves "in all courts of judicature within this commonwealth, shall be held, taken and adjudged "to be personal estate:" And whereas by the act "*Reducing into one the several acts concerning wills, the distribution of intestates estates, and the duty of executors and administrators,*" it is also enacted, "That executors and administrators, whether it be necessary "for payment of debts or not, shall as soon as convenient after they are qualified, sell at "public sale all such goods of their testator or intestate, specific legacies excepted, as are "liable to perish, be consumed, or rendered worse by keeping:" And whereas doubts may arise whether as slaves being personal estate, are perishable and liable through age or sickness to be rendered of less value by keeping, executors and administrators are not bound to sell the same whether it be necessary for the payment of debts or not: For declaring the law touching the same, *Be it further enacted*, That executors and administrators shall not sell the slaves of their testators or intestates, unless the other part of the personal estate, regard being had to the privilege of specific legacies, shall not be sufficient for paying the debts and expences, and in that case such part only of the slaves shall be sold as shall be

Executors not to sell their testator's slaves for payment of debts, unless the

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sufficient to satisfy the debts and expences, and the residue of the slaves shall be reserved in kind for the legatees or distributees, of their testators or intestates respectively. other personal estate is insufficient.

III. THIS act shall commence and be in force from the passing thereof. Commencement of this act.

CHAP. CLXXI.

An Act to amend the Act, intituled, "An Act reducing into one the several Acts for punishing Persons guilty of certain Thefts and Forgeries.

[Passed the 8th of December, 1794.]

I. BE *it enacted by the General Assembly*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly act or assist in the false making, forging or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, or any acquittance or receipt either for money or tobacco, or other valuable thing, or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, or shall utter or publish as true, any false, forged or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, acquittance or receipt for money, tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, knowing the same to be false, forged, or counterfeited, then every such person being thereof legally convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

Felony without benefit of clergy, to counterfeit or assist in counterfeiting any deed, will, bond, bill, note, acquittance or receipt, or assignment of any bond, bill, &c.
Or to utter or publish as true any such counterfeited deed, will, bond, bill, note, &c. or assignment thereof.

II. THIS act shall commence and be in force from and after the last day of *March* next. Commencement of this act.

CHAP. CLXXII.

An Act to amend the Act, to reduce into one the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.

[Passed the 12th of December, 1794.]

I. BE *it enacted by the General Assembly*, That every guardian appointed by the last will and testament of any person which shall be legally proved and recorded in any court, shall before he exercises any authority over the minor or his estate, appear openly in such court and declare his acceptance of the guardianship, which shall be recorded, and shall give bond with such security as the court may approve of in the same manner as statutory guardians, unless it is otherwise directed by the testator's will, and at the first or second session thereafter, he shall deliver into such court an inventory upon oath of all the estate which he shall have received, and within two successive courts after the receipt of any other estate of the ward, an inventory of such estate to be entered in the book directed to be kept concerning other guardians, and every testamentary guardian shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in *September*, or at the next session if there be none in that month, or oftener if specially required by the court, accounts of the produce and profits of the estate of the ward, and of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof, to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate or confirmation be recorded in the book aforesaid: And if any article of such accounts at any time afterwards be except-

Testamentary guardians to give bond and security before they exercise any authority over their wards; unless it is otherwise directed by the will.
When they are to deliver into the court an inventory of their wards estates; and accounts of their receipts and disbursements.
Their accounts to be examined, & if approved and confirmed to be recorded.

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Exceptions thereto, how to be made.

ed to by the ward or his repreſentatives, it ſhall be incumbent on him to prove or ſhew the falſity or injuſtice thereof, unleſs notice on his behalf ſhall have been given at the time of paſſing the accounts that ſuch article would be excepted to, and a memorandum of that notice and the exception ſhall have been entered on record.

When they may be diſplaced by the court and others appointed.

II. THE court aforeſaid if a teſtamentary guardian ſhall appear to have been guilty of a flagrant abuſe of truſt, may diſplace him and appoint ſome other perſon or perſons under the like rules and regulations as are preſcribed by law in caſes of ſtatutory guardians.

Court to appoint guardian when the teſtamentary guardian being ſummoned renounces the guardianſhip.

III. EVERY teſtamentary guardian who ſhall fail or neglect to appear before the court in which the laſt will and teſtament of his teſtator ſhall be proved and recorded, within the ſpace of ſix months thereafter, may be ſummoned and compelled to declare his acceptance or renunciation of the truſt, and if every of the guardians appointed in any ſuch laſt will and teſtament ſhall renounce the ſame, which renunciation ſhall be recorded, the ſaid court may and ſhall thereafter proceed to appoint and qualify ſome other perſon or perſons to the guardianſhip, in like manner as if no ſuch teſtamentary guardian had been nominated in ſuch laſt will and teſtament.

Proceedings againſt teſtamentary guardians failing to deliver in their accounts.

Penalty on the juſtices for neglect.

IV. A TESTAMENTARY guardian who ſhall not deliver in ſuch inventory and render ſuch accounts as aforeſaid, ſhall by order of the court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty or be diſplaced, for which purpoſe the ſummons or other proceſs from a county or corporation court may be directed to, and ſhall be executed by the ſheriff of any other county wherein the guardian may be found; and every juſtice of the court ſitting therein at any time during the term or ſeſſion in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced.

On the death of a guardian, debt due to his ward to be firſt paid.

V. THE eſtate of a teſtamentary guardian not under a ſpecific lien, ſhall after the death of the guardian be liable to whatſoever may be due from the guardian to his ward, before any other debt due from ſuch guardian.

Balance due to the guardians for diſburſements, to be debited in the account of the enſuing year, or paid out of the infant's perſonal eſtate.

When and how ſuch eſtate ſhall be ſold for that purpoſe.

Balance due to the ward, how to be diſpoſed of.

VI. IF a teſtator ſhall omit to direct the ſum of money, or the fund to be applied to the maintenance and education of his infant, and if the diſburſements of the teſtamentary guardian, or other guardian being ſuitable to the eſtate and circumſtances of the ward, ſhall exceed the profits of his or her eſtate in any year, the balance with the allowance of the ſaid court may be debited in the account of a ſucceeding year, and paid out of the perſonal eſtate of the infant, and ſo much and ſuch part thereof may with the approbation of the court, be ſold at public auction to the higheſt bidder, after reaſonable notice has been given of the time and place of ſuch ſale for that purpoſe as ſhall be neceſſary, and the balance appearing on the contrary ſide may be put out to intereſt for the benefit of the ward, upon ſuch ſecurity as the court ſhall direct and approve, or the guardian if it remain in his hands ſhall account for the intereſt, to be computed from the time his accounts were or ought to have been paſſed.

Power of teſtamentary guardians to leaſe their wards lands.

VII. IT ſhall be lawful for the teſtamentary guardian, provided there be no prohibition in the laſt will and teſtament, to make a leaſe of any lands, tenements, or hereditaments belonging to his ward, reſerving the beſt annual rent and moſt beneficial covenants for any term, ending when the ward ſhall arrive to the age of twenty one years, or continuing beyond that time as the ward ſhall elect.

Of ſtatutory guardians.

VIII. AND it ſhall be lawful for every ſtatutory guardian in like manner to make a leaſe of any lands, tenements or hereditaments, belonging unto his ward, for any term, ſo that the ſame does not exceed that period, when his ſaid ward ſhall arrive at the age of fourteen years.

Teſtamentary guardians may by order of the court of chancery, execute ſuch deeds as their wards could if of age.

IX. A TESTAMENTARY guardian if his ward be a truſtee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties intereſted, to the high court of chancery, by order of ſuch court to be made after hearing, may execute any deed, or perform any other act, which the truſtee or mortgagee if of full age might or could execute or perform, and ſuch deed or other act ſhall be valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed.

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X. A TESTAMENTARY guardian shall have the power under the same regulations to make or take a surrender of a former lease, and to take or make a new lease as are prescribed and granted to a statutory guardian, unless inconsistent with the last will and testament, subject however to be determined or continued by the ward after he or she arrives to full age.

To have the same power to receive surrenders of leases, and to make others as statutory guardians.

XI. IT shall be lawful for the court having cognizance of the accounts of any guardian, whether statutory or testamentary, upon passing the same, to make such allowance to the guardian as it shall deem a reasonable compensation for his attention, care and trouble.

Courts may in passing guardians accounts make them a reasonable allowance.

XII. WHERE an orphan shall have an estate, the profits of which are insufficient for his or her support, and yet is of such tender years, that the overseers of the poor cannot prevail upon a proper person to accept of the same orphan as an apprentice, it shall and may be lawful for the guardian or curator, with the approbation of the court, to take from the personal estate of his ward such sums of money as are necessary for the immediate support of the orphan, until he or she shall arrive at an age when the overseers of the poor can find a suitable master or mistress for him or her. The courts of each county respectively shall have full power at their discretion, to direct the overseers of the poor to covenant with the master or mistress of any apprentice bound to serve under their order, that a sum not exceeding twenty dollars shall be paid to the said apprentice, instead of the sum of twelve dollars heretofore allowed by law.

Where the court may direct part of an orphan's estate to be sold for his support.

Courts may direct overseers of the poor in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars.

XIII. THIS act shall commence and be in force from and after the first day of *March* next.

Commencement of this act.

CHAP. CLXXIII.

An Act concerning Prison Breakers.

[Passed the 13th of December, 1794.]

I. WHEREAS it hath been held that by the common law, the offence of breaking a jail or prison is in all cases felony:

Preamble.

II. *BE it therefore enacted by the General Assembly,* That none from henceforth who being in actual jail, breaketh prison, shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convict thereupon, according to the law of the land.

In what cases breaking prison shall be felony.

III. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

CHAP. CLXXIV.

An Act concerning Debtors and their Securities.

[Passed the 23d of December, 1794.]

I. WHEREAS in many instances creditors have delayed to commence actions on bonds, bills, or promissory notes, executed to them for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been ultimately compelled to discharge the amount of the money or tobacco due by such bill, bond, or note, without the possibility of being afterwards reimbursed by such principal debtor or debtors: For remedy whereof,

Preamble.

II. *BE it enacted by the General Assembly,* That when any person or persons shall hereafter become bound as security or securities by bond, bill, or note, for the payment of money or tobacco, and shall apprehend that his or their principal debtor or debtors is or are likely to become insolvent, or to migrate from this commonwealth, without previously discharging such bond, bill, or note, so that it will be impossible or extremely difficult for

When securities in bonds may require the creditors to commence suits thereon.

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ſuch ſecurity or ſecurities after being compelled to pay the amount of the tobacco or money which may be due by ſuch bond, bill, or note, to recover the ſame back from ſuch principal debtor or debtors, it ſhall and may be lawful for ſuch ſecurity or ſecurities, in every ſuch caſe, provided an action ſhall have accrued on ſuch bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as ſecurity or ſecurities as aforeſaid, in ſuit; and unleſs the creditor or creditors ſo required to put ſuch bond, bill, or note, in ſuit, ſhall in a reaſonable time commence an action on ſuch bond, bill, or note, and proceed with due diligence in the ordinary courſe of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by ſuch bond, bill, or note, the creditor or creditors ſo failing to comply with the requiſition of ſuch ſecurity or ſecurities, ſhall thereby forfeit the right which he or they would otherwiſe have to demand and receive of ſuch ſecurity or ſecurities the amount of the money or tobacco which may be due by ſuch bond, bill, or note.

Creditors failing to do ſo, to loſe their remedy againſt the ſecurities.

III. ANY ſecurity or ſecurities, or in caſe of his or their death, then his or their executors or adminiſtrators, may in like manner and for the ſame cauſe make ſuch requiſition of the executors or adminiſtrators of the creditor or creditors of ſuch ſecurity or ſecurities, as it is herein before enacted may be made by a ſecurity or ſecurities of his or their creditor or creditors; and in caſe of failure of the executors or adminiſtrators ſo to proceed, ſuch requiſition as aforeſaid being duly made, the ſecurity or ſecurities, his or their executors or adminiſtrators, making the ſame, ſhall have the ſame relief that is herein before provided for a ſecurity or ſecurities when his or their creditor or creditors ſhall be guilty of a ſimilar failure.

Securities and their executors may proceed in the ſame manner with the executors of the creditor.

IV. *PROVIDED always,* That nothing in this act contained ſhall be ſo conſtrued as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, adminiſtrators, or public officers.

Bonds with collateral conditions & thoſe given by guardians, executors and public officers excepted.

V. *AND provided alſo,* That the rights and remedies of any creditor or creditors againſt any principal debtor or debtors, ſhall be in no wiſe affected by this act. Any thing therein to the contrary, or ſeeming to the contrary, notwithſtanding.

Creditors remedy againſt his principal debtor, not to be affected.

VI. THIS act ſhall commence and be in force, from and after the firſt day of *March,* which ſhall be in the year of our Lord, one thouſand ſeven hundred and ninety-five.

Commencement of this act.

C H A P. CLXXV.

An Act ſupplementary to the Act, intituled, An Act to empower Securities to recover Damages in a ſummary Way."

[Paſſed the 23d of December, 1794.]

I. BE *it enacted by the General Aſſembly,* That in all caſes where execution hath been or ſhall hereafter be awarded or iſſued in any of the courts of record within this commonwealth, againſt any perſon or perſons as ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be ſo awarded or iſſued without judgment, and the amount of ſuch bond, obligation, or recognizance, or any part thereof, or the debt or damages due by reaſon thereof, or any part thereof, hath been paid or diſcharged under the ſaid execution iſſued thereon by ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, to obtain judgment by motion againſt ſuch principal obligor or obligors, recognizor or recognizors, his, her, or their heirs, executors, or adminiſtrators, in any court where ſuch execution may have been awarded or iſſued againſt ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators.

How ſecurities in bonds, on which executions may be awarded without judgment, may proceed againſt their principals.

II. *AND be it further enacted,* That where the ſaid principal obligor or obligors, recognizor or recognizors, have or hereafter ſhall become inſolvent, and there have been, or

How they may proceed againſt thoſe

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ſhall be two or more ſecurities jointly bound with the ſaid principal obligor or obligors, recognizor or recognizors, in any ſuch bond, obligation, or recognizance, and execution ſhall be awarded or iſſued thereon againſt one or more of ſuch ſecurities, and his or their legal repreſentatives, it ſhall and may be lawful for the court in which ſuch execution was awarded or iſſued, upon motion of the party or parties, his or their legal repreſentatives, againſt whom execution hath been awarded or iſſued as aforeſaid, to award or iſſue execution againſt all and every of the obligors and recognizors, and legal repreſentatives, for their and each of their reſpective ſhares and proportions of the ſaid debt or damages due by reaſon of the ſaid obligation or recognizance. *Provided always,* That no judgment ſhall be obtained or execution awarded or iſſued by motion as aforeſaid, unleſs the party or parties againſt whom the ſame is prayed, ſhall have ten days previous notice in writing thereof. *who were bound with them as ſecurities.*

III. ALL judgments entered, and executions awarded and iſſued by virtue of this act, ſhall be enforced under the like regulations with judgments under the act, intituled, "*An act to empower ſecurities to recover damages in a ſummary way,*" *Executions on ſuch judgments, how to be enforced.*

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof. *Commencement of this act.*

C H A P. CLXXVI.

An Act to continue and amend the Act, intituled, "An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the ſeveral Acts concerning Executions, and for the relief of Inſolvent Debtors."

[Paſſed the 24th of December, 1794.]

I. BE *it enacted by the General Aſſembly of Virginia,* That the act, intituled, "*An act for further continuing and amending the act, intituled, An act for reducing into one, the ſeveral acts concerning executions, and for relief of inſolvent debtors,*" paſſed in the year one thouſand ſeven hundred and ninety-three, ſhall be, and the ſame is hereby continued in force, until the firſt day of *January,* one thouſand ſeven hundred and ninety-ſix. *Act of 1793, concerning executions continued until the 1ſt of January 1796.*

II. *AND be it further enacted,* That if any perſon ſhall hereafter be taken or charged in execution in any ſuit commenced or proſecuted in any court of record within this commonwealth, it ſhall be lawful for any judge or juſtice of the ſaid court, or of the court of that county or corporation, to whoſe jail ſuch perſon ſhall be committed, by warrant under his hand and ſeal, to command the jailor or keeper of the ſaid priſon, to bring before any two juſtices of the county or corporation, to whoſe jail he may be committed, at the courthouſe of ſuch county or corporation, on a certain day to be appointed in ſuch warrant, the body or bodies of ſuch perſon or perſons ſo in priſon as aforeſaid, together with a liſt of the ſeveral executions, with which he or ſhe ſhall ſtand charged in the ſaid jail, which warrant ſuch jailor is hereby required to obey, and reaſonable notice thereof ſhall be given to the party or parties, his or their executors, adminiſtrators, or agents, at whoſe ſuit ſuch perſon or perſons ſhall be in execution; and the ſaid juſtices ſhall have full power to adminiſter the oath heretofore required by law to ſuch priſoner or priſoners, and to releaſe him or them in the manner and under the regulations and proviſions preſcribed by the ſaid recited act. *Juſtices of any county may adminiſter the oath to an inſolvent debtor committed to the jail of ſuch county.*

III. *AND be it further enacted,* That if any ſheriff or other officer ſhall fail to deliver to the creditor, his agent or attorney, or other legal repreſentative, on demand, any bond taken for the forthcoming of property, or any twelve months bond taken under the above recited act, or return the ſame to the office from whence the execution iſſued, within ſixty days from the return day of the execution, ſuch ſheriff or other officer, his executors or adminiſtrators ſhall be liable to the ſame fine and penalty for every month of ſuch failure, to be recovered in the ſame manner by the party injured, as is directed by law againſt a ſheriff failing to return an execution. *Penalty on a ſheriff failing to deliver a forthcoming or replevy bond to the plaintiff on demand, or to return it within 60 days to the clerk's office.*

IV. ON a ſale under execution upon twelve months credit, where the amount of ſuch ſale ſhall exceed the principal, intereſt and coſts, if the ſheriff or other officer ſhall fail to *Mode of proceeding againſt a ſheriff*

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Failing to take a bond for the excess, on a sale on 12 months credit.

take a twelve month's bond for such excess as directed by the twenty-sixth section of the above recited act, such sheriff or other officer so failing, his executors or administrators, shall be liable to the debtor or his legal representatives for the full amount of such excess, to be recovered in the same manner as is directed by law against a sheriff failing to pay money received on an execution.

Obligees and assignees remedy on replevy bonds.

V. THE obligee or obligees, in a twelve month's replevy bond, shall and may have the like remedy thereon, by *fieri facias*, against the executors or administrators of a deceased obligor or obligors, as such obligee or obligees may now have against the obligor or obligors themselves; and that every assignee or assignees, and the executors or administrators of every assignee of such bond, shall be entitled to the like remedy thereon, as by law is given to the executors or administrators of the first assignee thereof.

Plaintiff may sue out new execution when a replevy or forthcoming bond is quashed.

VI. IF a replevy or forthcoming bond be at any time quashed as faulty, the obligee or obligees in such bond, besides his or their remedy against the sheriff, may moreover have execution on his or their judgment, in the same manner as if such replevy or forthcoming bond had never been taken.

Writs of *elegit* and *capias ad satisfaciendum* may be issued on replevy bonds, &c.

VII. ALL persons who have or shall hereafter have any money or tobacco due on a twelve month's replevy bond, or bond taken for the excess on a sale under execution upon twelve months credit, may at their election after lodging the same in the clerk's office, with an affidavit as directed by law, prosecute as well the writs of *elegit* and *capias ad satisfaciendum* thereon, as the writ of *fieri facias* now given by law; on which writs of *elegit* and *capias ad satisfaciendum*, the same rules and regulations shall be observed, as are by law established, when issued on judgments. *Provided*, That if any person or persons taken on any such *capias ad satisfaciendum*, after twelve months replevy, shall tender to the sheriff or other officer serving the same, slaves or other personal property, to the value of the debt and costs for which such execution has issued, or may hereafter issue, the sheriff or other officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money or tobacco at a future day, but shall proceed to sell the same, or sufficient thereof to raise the money or tobacco mentioned in the said execution.

Remedy against executors and securities of a sheriff failing to return an execution, &c. in due time.

VIII. IF any sheriff or other officer shall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the same issued, on or before the return day thereof, the executors or administrators of such sheriff or other officer, as well as the securities of such sheriff or other officer, and the executors or administrators of such securities, shall be liable to like fine and penalty, recoverable in the same manner as by law is directed against a sheriff himself failing to return an execution.

No execution to be returned without an indorsement thereon, how it hath been executed.

IX. NO sheriff or other officer shall return any execution or attachment for not performing a decree in chancery to the office from whence the same issued, without noting thereon how he hath executed the same, unless by the express directions in writing of the plaintiff, his agent or attorney; and if any sheriff or other officer having no such directions, shall return any such execution or attachment to the office from whence the same issued, without noting or endorsing thereon how he hath executed the same, such sheriff or other officer, and his securities, and the executors or administrators of all and every of them, shall in every such case be liable to the like fine, and recoverable in the same manner as is directed by law against a sheriff failing to return an execution.

Allowance to sheriffs for support of slaves and live stock taken in execution.

X. WHEN any sheriff or other officer shall provide sustenance for the support of slaves, horses, or other live stock, by virtue of the twentieth section of the above recited act, the said sheriff or other officer in lieu of the mode thereby provided for obtaining compensation therefor, shall be allowed *per* day for each slave fifteen cents; for each horse or mule twelve cents; and for each head of horned cattle five cents; which allowance the said sheriff or other officer shall charge to the plaintiff, to be collected in same manner as commissions arising on executions, and shall be paid by the defendant to the plaintiff, to be taxed in the bill of costs by the said sheriff or other officer.

Sheriffs to include their

XI. *AND be it further enacted*, That every sheriff or coroner (as the case may be) shall be allowed for taking every bond to the creditor sixty-two cents, and no more; and that

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every ſheriff or coroner may include his commiſſions in forthcoming and replevy bonds taken on any writ of execution; but he ſhall not demand or receive ſuch commiſſions on forthcoming bonds, unleſs the ſame ſhall be forfeited.

commiſſions in forthcoming and replevy bonds.

XII. *PROVIDED always*, That where any fine or penalty is inflicted on the executors or adminiſtrators of any ſheriff by this or the above recited act, the ſame ſhall be conſidered to affect only the aſſets in their hands as executors or adminiſtrators.

Fines and penalties on executors of ſheriffs, to affect only the aſſets in their hands.

XIII. SO much of the thirty-eighth ſection of the ſaid recited act as is contrary hereto, ſhall be, and the ſame is hereby repealed.

Part of the 38th ſect. of the act of 1793, repealed.

XIV. THIS act ſhall commence and be in force, from and after the thirty-firſt day of *December*, one thouſand ſeven hundred and ninety-four, until the firſt day of *January*, one thouſand ſeven hundred and ninety-ſix.

Commencement and duration of this act.

C H A P. CLXXVII.

An Act to amend the Act for regulating Pilots, and aſcertaining their Fees.

[Paſſed the 24th of December, 1794.]

I. BE *it enacted by the General Aſſembly*, That every maſter of a veſſel, carrying a pilot to ſea, ſhall pay to ſuch pilot the ſame wages as the mate of ſuch veſſel receives.

Pilots carried to ſea, to receive the ſame wages as the mate.

II. EVERY pilot hereafter applying for a branch, ſhall, previous to obtaining the ſame, enter into bond, with ſuch ſecurity as the commiſſioners may approve, in the ſum of eight hundred dollars.

Pilots hereafter obtaining branches, to give bond and ſecurity.

III. NO pilot reſiding in another ſtate ſhall be allowed to act as a pilot in any boat belonging to this ſtate; and if any ſuch perſon ſhall preſume to act, he ſhall be liable to the ſame penalty for each offence as is impoſed by law on ſuch as violate the terms of their branch and reſpective claſs, to be recovered in like manner.

Pilots reſiding out of the ſtate, not to act in any boat belonging to this ſtate.

IV. EVERY pilot being requeſted by the owner or maſter of a veſſel, and attending the ſame with his boat, ſhall be allowed and paid the ſum of five dollars for each day he ſhall attend.

Allowance to pilots for each day they attend a veſſel at the maſter's requeſt.

V. EVERY pilot taking charge of any ſhips of war, ſhall receive the following prices in lieu of the pilotage heretofore allowed, that is to ſay: For all ſhips of war above fifty guns, from *Cape Henry* to *Hampton Road*, ſixteen dollars; for all ſhips under fifty and above twenty guns, twelve dollars; from *Cape Henry* to *York* town for all ſhips above fifty guns, twenty dollars; for all ſhips under fifty guns and above twenty guns, fifteen dollars; from *Cape Henry* to any river on *Mockjack* bay, twenty dollars; from the *Cape* to *Smith*'s point on *South Patowmac*, forty dollars, and the ſame back again.

Rates of pilotage for ſhips of war.

VI. EVERY pilot ſhall be allowed and paid for the pilotage of any veſſel above ſeventy tons, and coming from ſea, one fourth in addition to the ſums allowed by law.

One fourth added to the pilotage of certain veſſels.

VII. SO much of any act or acts as comes within the purview of this act, is hereby repealed.

Repealing clauſe.

VIII. *PROVIDED*, That nothing herein expreſſed ſhall affect the rate of pilotage as eſtabliſhed by law from the *Capes* to the different places up the *Patowmac* river, which ſhall remain as eſtimated in the law paſſed in one thouſand ſeven hundred and ninety-two.

Exception as to veſſels going from the capes up *Patowmac*.

IX. THIS act ſhall commence and be in force, from and after the firſt day of *March* next.

Commencement of this act.

1794.

CHAP. CLXXVIII.

An Act for the Support of the Marine Hospital.

[Passed the 25th of December, 1794.]

Taxes imposed on all sailors coming into the ports of this commonwealth.

I. BE *it enacted by the General Assembly,* That a tax of thirty cents shall be, and is hereby imposed on every sailor, to be paid by the captain, master or owner of the vessel on her return from a voyage at the time of making entry of such vessel.

When and how to be collected.

II. EVERY captain, master or owner of a vessel on his return from a voyage, shall at the time of entering his vessel, give in upon oath to the collector a list of the names of sailors in his vessel, and moreover pay down the tax hereby imposed, to be by him deducted out of their wages. If the captain, master or owner shall fail to give in such list, he shall forfeit and pay the sum of forty dollars, to be recovered by the collector with costs on motion in any court of record in this commonwealth, provided the party has ten days previous notice of such motion. If the captain, master or owner of any vessel shall fail to pay down the amount of the tax as aforesaid, it shall be lawful for the collector, and he is hereby required to recover the same by warrant, before a magistrate, where the sum doth not exceed five dollars, and where it exceeds that sum, by motion as before directed in case of failure to give in a list.

Collectors to give bond and security for collecting and accounting for the said tax. To render accounts thereof quarterly to the treasurer. Their commissions.

III. EVERY collector in this commonwealth on or before the first day of *March* next, shall enter into bond with sufficient security in the court of the county where he resides, in the penalty of four thousand dollars, payable to the Governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act. Every collector shall render such account quarterly to the treasurer of the commonwealth, and pay to him the money he shall have received by virtue of this act, deducting a commission of two and an half for his trouble in collecting and paying the same, and on failure thereof, such collector shall forfeit and pay the sum of eight hundred dollars, to be recovered by the treasurer in any court of record in this commonwealth by motion, provided the collector has ten days previous notice of such motion.

Money received by virtue of this act to be applied to the support of the marine hospital in *Washington,* in *Norfolk* county. Ports in which the tax is payable.

IV. ALL monies received by the treasurer in virtue of this act shall be applied under the direction of the Executive towards finishing and supporting the Marine hospital in the town of *Washington,* in the county of *Norfolk: Provided,* that no seaman or mariner whatever, who shall arrive in any port of this commonwealth, (other than into the ports on *James, York, Rappahannock* and *Elizabeth* rivers) shall be considered as coming within the purview of this act. Any thing herein contained to the contrary notwithstanding.

CHAP. CLXXIX.

An Act to amend the Act for regulating Conveyances.

[Passed the 25th of December, 1794.]

Preamble.

I. WHEREAS it is enacted in the fifth section of the act, intituled, "*An act for regulating conveyances,*" passed the thirteenth day of *December,* in the year of our Lord, one thousand seven hundred and ninety-two, in the following words, to wit: "If the party who shall sign and seal any such writing reside not in *Virginia,* or in the "district or county where the lands conveyed lie, the acknowledgment of such party, or "the proof by the number of witnesses requisite, of the sealing and delivering of the "writing, before any court of law, or the mayor or other chief magistrate of any city, "town, or corporation of the county in which the party shall dwell, certified by such "court, or mayor, or chief magistrate, in the manner such acts are usually authenticated "by them, and offered to the proper court, to be recorded within eighteen months after "sealing and delivering, where the party resides out of this commonwealth, and within "eight months after the sealing and delivery, where the party resides within this common- "wealth, shall be as effectual as if it had been in the last mentioned court:" And whereas

the operation of the ſaid act is found not to be coextenſive with the intent thereof, by reaſon that ſome of the ſubdiviſions of the United States, as well as of other countries, are not denominated by the term of counties:

II. *BE it therefore enacted*, That if any party who ſhall ſign and ſeal any ſuch writing as is contemplated in the ſection aforeſaid, reſide not in *Virginia*, the acknowledgment by ſuch party, or the proof by the number of witneſſes requiſite of the ſealing and delivering of the writing before any court of law, or the mayor or other chief magiſtrate of any city, town, or corporation, of and in the country in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court to be recorded within two years after the ſealing and delivering, ſhall be as effectual as if it had been done in the laſt mentioned court. How deeds, &c. made by perſons reſiding out of the ſtate, may be proved and recorded.

III. THIS act ſhall commence and be in force from the paſſing thereof. Commencement of this act.

CHAP. CLXXX.

An Act to amend an Act, intituled, "An Act concerning Eſcheators."

[Paſſed the 26th of December, 1794.]

I. WHEREAS a contrariety of opinion hath prevailed reſpecting the conſtruction of an act of the General Aſſembly of this commonwealth, paſſed *November* thirtieth, one thouſand ſeven hundred and ninety-two, intituled, "*An act concerning eſcheators*;" and it is proper that the ſaid act ſhould be ſo explained and amended as to prevent any doubts in the expoſition thereof in future: Preamble.

II. *BE it enacted by the General Aſſembly*, That each and every inqueſt hereafter to be taken under the ſaid in part recited act, ſhall conſiſt of ſixteen freeholders, who ſhall be returned and impannelled by the ſheriff of the county, to meet at the courthouſe of the ſaid county where the inqueſt is taken, who ſhall ſuffer every perſon to give evidence openly in the preſence of the ſaid jurors; and the ſaid inquiſition ſo taken, ſhall be by indentures to be made between the eſcheator and any twelve or more of the inqueſt, whereof the counter part ſhall remain in the poſſeſſion of the firſt perſon that ſhall be ſworn in the ſaid jury, and by him ſhall be returned to the court of the ſame county, there to be recorded, and the other part ſealed by the jurors agreeing in their verdict, ſhall by the eſcheator be ſent into the court of the diſtrict in which the land lieth, within one month after the inqueſt taken, and the ſame proceedings ſhall then in every caſe and manner be purſued as is directed in the ſaid act. How many jurors ſhall be impannelled on each inqueſt. Where they ſhall meet. Inquiſitions when taken, how to be diſpoſed of.

III. AND where the eſcheator proceeds to a ſale of lands under the proviſions in the ſaid act, the ſame ſhall be ſold at public vendue, at the courthouſe of the county wherein the ſaid land lieth, either by the whole tract, or in ſuch manner as in his opinion will increaſe the value thereof. How and when eſcheated lands ſhall be ſold.

IV. THIS act ſhall not be conſtrued to repeal any part or parts of the aforeſaid act, other than ſuch as are rendered nugatory by the expreſs directions of this act. How far this act is to affect the act of 1792 concerning eſcheators.

V. AND whereas no allowance hath been provided by law for the ſervices required to be performed by the ſeveral eſcheators of this commonwealth, and ſome allowance being adjudged reaſonable, *Be it therefore enacted*, that for each inqueſt taken by any eſcheator on behalf of this commonwealth, ſuch eſcheator ſhall be allowed the ſum of five dollars, to be paid out of the fund charged with the payment of the civil liſt; and that he ſhall alſo be allowed a commiſſion of five *per cent*. on all ſums by him received by virtue of his office, and which ſhall be paid into the public treaſury by him. Eſcheators fees, and commiſſions.

VI. AND it is hereby declared to be the duty of the attorney proſecuting for the commonwealth, in any and every county therein, to proſecute ſuch inqueſt; and ſuch attorney for his trouble and expence, ſhall be allowed the ſum of five dollars for every inqueſt and office found he ſhall attend, to be paid by the auditor of public accounts out of the aggregate fund. Attorney for the commonwealth to attend at the taking of inqueſts. Allowance to him.

VII. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

1794.

CHAP. CLXXXI.

An Act authorising the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors in certain Cases.

[Passed the 26th of December, 1794.]

Discretionary power vested in the Executive to remit damages, and fines incurred by public collectors. Proviso.

I. BE *it enacted by the General Assembly*, That when any application shall be made to the Executive by any sheriff or other collector of the public revenue, or their securities, or the representatives of either, for the remission of damages or fines incurred by them in favour of the commonwealth, the Executive shall be authorised to take into consideration the particular circumstances of each case, and may remit the whole or part of such damages or fines, as to them shall appear just and reasonable. *Provided,* That before any damages, or any part thereof shall be remitted, that the applicant shall produce a certificate from the auditor of public accounts, that the principal, interest and costs have been paid into the public treasury.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

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